

company, not interfering with the rights and privileges of said company.

SEC. 3. This act to take effect and be in force from and after its passage.

### CHAPTER CCCXV.

An Act for the benefit of the Union Literary Society.

[APPROVED JANUARY 29, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the auditor of state be, and he is hereby authorized to permit the Union Literary Society of Indianapolis to hold its meetings in any one of the unoccupied rooms in the governor's circle until the same shall be required for state purposes.

SEC. 2. This act to take effect and be in force from and after its passage.

### CHAPTER CCCXVI.

An Act to repeal the second section of an act to vacate certain alleys in the town of Bloomington.

[APPROVED FEBRUARY 11, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the second section of an act entitled an act to vacate certain alleys in the town of Bloomington, approved January 18th, 1847, be and the same is hereby repealed.

SEC. 2. This act to be in force from and after its passage.

### CHAPTER CCCXVII.

An Act in relation to the county seminary fund of Tippecanoe county.

[APPROVED FEBRUARY 11, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That all moneys collected on forfeited recognizances in the county of Tippecanoe, shall be regarded and held as belonging to and forming a part of the county seminary fund of said county, and as such shall be managed and controlled by the officers having charge of said seminary fund, as other moneys belonging thereto.

SEC. 2. This act shall be in force from and after its passage; and all laws conflicting herewith are hereby repealed, so far as relates to the county of Tippecanoe.

### CHAPTER CCCXVIII.

An Act to authorize the clerk of the Carroll circuit court to sell certain real estate.

[APPROVED FEBRUARY 29, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the clerk of the Carroll circuit court is authorized to make sale of forty feet of the west side of lot twenty-four, of the original plat of the town of Delphi, in Carroll county, the same being mortgaged by Tweed & Pigman to the surplus revenue fund of said county; after giving three week's notice of the time and place of sale, by publication in some newspaper published in said county, said clerk shall proceed to sell the said real estate to the highest bidder, on a credit of five years, with interest, at the rate of six per centum, to be paid annually in advance, the purchaser to secure the payment thereof by bond or note with good security.

SEC. 2. On the purchaser paying to the proper officer having the charge of said fund the first year's interest, and producing his receipt therefor, and tendering his bond or note, with good security, payable to the proper officer having charge of said fund, it shall be the duty of said clerk to receive said bond or note, and give to such purchaser a certificate stating the purchase of said real estate, the terms of the sale, and that on complying with its conditions, the legal holder thereof will be entitled to a deed for said real estate.

SEC. 3. After the full payment of the purchase money, according to the conditions to be specified in said certificate, the clerk of said court shall execute and deliver to the legal holder of said certificate

a deed in fee simple for said real estate, conveying all the title which the state may have in the premises, by virtue of said mortgage of said Tweed & Pigman, which said deed said clerk shall acknowledge before some officer authorized to take acknowledgment of deeds, and deliver to the person entitled to receive the same.

SEC. 4. In case default shall be made in the payment of the principal of the purchase money, for the said real estate or any installment of the interest, as the same may respectively become due, it shall be discretionary with the officer having the charge thereof to proceed to collect the same by suit, on the said note or bond, immediately, or sell the said real estate to the highest bidder, for cash in hand and proceed to collect the remainder, (if any,) by suit or otherwise, against the makers of said bond or note, or their legal representatives. And if there is any overplus, after paying said purchase money and the costs of suit, it shall be paid over to the legal holder of such certificate of purchase; and in such case the whole of said purchase money shall be due and payable, anything hereinbefore or hereinafter to the contrary notwithstanding; and after the payment of the money by such purchaser, and after reasonable demand therefor, it shall be the duty of said clerk to execute a deed to such second purchaser, in the same manner as is specified in section three in this act; and thenceforth all right to said real estate by virtue of said first certificate, shall cease and be absolutely void.

SEC. 5. The certificate of purchase mentioned in the second section of this act may be assigned by endorsement thereon, and the legal holder shall be entitled to the possession of said real estate, until default in the payment of the principal or some installment of interest.

SEC. 6. The legal holder of the certificate mentioned in the second section of this act, may, at any time before the sale mentioned in the fourth section of this act, pay the amount then due, with all costs, and enjoy the benefit of said purchase, the same as if no default had been made.

SEC. 7. The different officers specified in this act shall be allowed a reasonable sum for their services, to be paid out of said fund, except such as are made by virtue of the fourth and sixth sections, which are to be paid by the makers of said note or bond, or the legal holder of the certificate of purchase.

SEC. 8. This act shall be a public act and shall be in force from and after its passage.

## CHAPTER CCCXIX.

An Act to incorporate the Madison Female College.

[APPROVED FEBRUARY 12, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That Thomas A. Goodwin, and his successors in office, be and they are hereby constituted a body corporate and politic in law, by the name and style of the trustees of the Madison Female College, and by the said name and style shall have succession and exist forever.

SEC. 2. That the said trustee shall have power to establish and maintain in the city of Madison, county of Jefferson, an institution for the education of females, upon a plan suitable for the benefit of the youth of every class of citizens, and every religious denomination, who shall be freely admitted to equal advantages and privileges of education, and to all the literary honors of said college, according to their merit. He shall have power to appoint a secretary and treasurer, and such other officers as may be deemed necessary, for the proper management of the institution; to assign their duties, limit their terms of office, and the same to remove at pleasure; to adopt such rules and regulations not contrary to the constitution and laws of the United States, or the constitution and laws of this state, as he may deem necessary; to determine the course of study, to make and use a common seal, and the same to alter or renew at pleasure.

SEC. 3. That said trustee shall be *ex officio* president of the institution, and shall have power to appoint such professors, assistants, and tutors, as he may deem necessary to carry out the designs of the institution, which president, professors, &c., shall be known as the Board of Instruction of the Madison Female College.

SEC. 4. That for the purpose of stimulating and encouraging the pupils in their progress, and promoting the general interest of the institution, the said board of instruction shall have full power and authority to graduate with literary honors such pupils as shall, from time to time, be found to have merited the same by their character and acquirements; and said board shall have power, in furtherance of the aforesaid objects, to confer on all pupils whom they may deem worthy thereof, all such literary honors and degrees, as are usually conferred by the best female colleges, institutions or academies, and may issue, when they deem it expedient, testimonials or diplomas, bearing the seal of said college, as certificates of the same, signed by the president of the college; *Provided*, That no such degrees be conferred upon any person who shall not have made such attainments in learning as are required at other female colleges.

SEC. 5. That said trustee shall be and he is hereby made capable in law, by the name and style of the Trustee of the Madison Female College, to purchase, possess, receive, and enjoy, and retain

hold or dispose of, for the literary and educational purposes of said college, land, tenements, and annuities, and other hereditaments in fee simple, or for a term of years, life, lives, or otherwise; and, also, money, bonds, bills, notes, goods, chattels, interests, or effects, of whatever nature, kind, or quality soever, to the amount of one hundred thousand dollars; and the same to grant, demise, sell, deliver, and confirm, in such manner as he may deem best; to contract and be contrated with; to sue and be sued; to plead and be impleaded in any court or courts, before any judge, judges, or justices within this state or elsewhere, and to fully enjoy all the privileges, granted in the second section of the act entitled "an act to incorporate the Trustees of Fort Wayne Female College," approved January 18, 1847.

SEC. 6. This act is hereby declared a public act and shall be construed liberally for every beneficial purpose hereby intended, and no omission to use any of the privileges herein granted, shall cause a forfeiture of the same, nor shall any gift, grant, conveyance, or devise to or for the use of the institution be defeated or prejudiced on account of any misnomer or informality whatever; *Provided*, The intention of the parties be shown beyond a reasonable doubt.

SEC. 7. This act shall take effect and be in force from and after its passage.

#### CHAPTER CCCXX.

An Act to vacate a part of a State Road in the County of St. Joseph.

[APPROVED JANUARY 25, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That all that part of the state road lying in the county of St. Joseph, East of the North West corner of section eighteen in township thirty-eight, range four East, in the county aforesaid, be and the same is hereby vacated, [and] made null and void.

SEC. 2. This act to take effect and be in force from and after its passage.

#### CHAPTER CCCXXI.

An Act for the Relief of Elizabeth Jones of Gibson County, Indiana.

[APPROVED JANUARY 29, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That Elizabeth Jones of the county of Gibson and state of Indiana be and she is hereby authorized to file her bill in chancery in the Gibson circuit court, against her husband John Jones, for the purpose of obtaining a divorce from said John.

SEC. 2. And it is hereby further enacted that said cause shall not be barred by any judgment or decree heretofore rendered by said court, nor by any act done by said Elizabeth since the separation of said John and Elizabeth; but that said court shall hear said cause, and decide the same without any regard to said judgment or decree or act done.

SEC. 3. This act shall take effect and be in force from and after its passage, and filing a copy in the clerk's office of said county.

#### CHAPTER CCCXXII.

An Act to authorize the sale of School Lands in Jay County

[APPROVED FEBRUARY 5, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the auditor and school commissioner of Jay county, be and they are hereby authorized to sell section sixteen, in congressional township number twenty-two, twenty three, and twenty-four, North of range thirteen, fourteen and fifteen East, in said county of Jay, on a credit of twenty-five years, for the whole amount, instead of requiring one-fourth in hand as is now required in section one hundred and seventy-eight, chapter thirteen, of the Revised Statutes of 1843.

SEC. 2. Whenever a majority of the votes, cast at an election, as is provided for by section one hundred and seventy-two, of chapter thirteen of the Revised Statutes of 1843, shall be in favor of the sale of the lands of said township, and the same is made known to the proper authorities, as is required by law, then the auditor and school commissioner of said county, shall proceed and sell the same, in accordance with this act, and other laws on this subject remaining in force in said county of Jay.

SEC. 3. Said auditor and commissioner of Jay county, shall be

in all other respects governed by the laws now in force on that subject.

SEC. 4. All laws and parts of laws, contravening the provisions of this act, are hereby repealed.

SEC. 5. This act to take effect and be in force from and after its passage; and the secretary of state shall, forthwith, forward a copy of this act to the clerk of the Jay circuit court.

### CHAPTER CCCXXIII.

An Act giving further time for the settlement of the Revenues of Delaware County.

[APPROVED DECEMBER 16, 1847.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the time of settlement between the auditor and treasurer of Delaware county as now provided for by law, be and the same is hereby extended until the first Monday in May, so far as relates to the revenues of A. D. 1847; and that the time for paying over the state revenue of said county to the treasurer of state be and the same is hereby extended until the fourth Monday in May next.

SEC. 2. Said treasurer of Delaware county shall not have the right to distrain and sell any property for the non-payment of taxes until after the first Monday in April, except where he shall have cause to fear that any person is about to remove from the county without paying said taxes, when he may proceed to collect from such person as now provided for by law.

SEC. 3. Said treasurer shall at the time herein specified for settlement with the county auditor, make out the delinquent list as now provided for by law; and when the same is made out, all the penalties now provided for in such cases shall attach to such delinquents.

SEC. 4. This act shall be in force from and after its passage, and shall remain in force for one year and no longer; and it shall be the duty of the secretary of state forthwith to transmit to the treasurer of said county a certified copy of this act.

### CHAPTER CCCXXIV.

An Act for the relief of the securities of John Plasters, formerly School Commissioner of Miami County.

[APPROVED FEBRUARY 12, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the school commissioner of Miami county is hereby authorized and required to extend the time of payment of the liabilities of the securities of John Plasters, formerly school commissioner of Miami county, five years from and after the second day of February next, without requiring the execution of new bonds or mortgages, unless the present securities should be by him deemed insufficient, in which case he shall require additional security; *Provided,* That said extension of the time of payment shall only apply to principal and not to interest, or other moneys for which said securities or either of them are liable, which is by law required to be distributed for the use of common schools.

SEC. 2. This act to take effect and be in force from and after its passage.

### CHAPTER CCCXXV.

An Act for the relief of Zachariah Collins.

[APPROVED JANUARY 29, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the school commissioner of Wabash county is hereby directed to refund to Zachariah Collins, of the aforesaid county, forty dollars of any funds that are or may come into his hands, belonging to township twenty-seven north, range number seven east, of the principal meridian.

SEC. 2. That the auditor of Wabash county shall issue a warrant or order to the school commissioner of said county in favor of the said Collins to the amount of forty dollars, which shall be by him audited as having been issued by virtue of this act.

SEC. 3. The board doing county business in Wabash county shall, in the annual settlement with the school commissioner, allow him a credit for the said sum of forty dollars, as though the same had been paid to the proper township officers.

SEC. 4. This act shall be deemed a public act, and shall be in force from and after its passage and publication in a public newspaper, and a copy thereof filed in the auditor's office of Wabash county.

#### CHAPTER CCCXXVI

An Act to vacate certain streets and alleys in the town of Raysville, Henry county.

[APPROVED JANUARY 2, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the streets and alleys that run through and divide lots numbers one, two, three, four, five and six, in block three; also lots numbers one, two, and three in block four, and two other lots of ground adjoining the above lots on the north-east, where John T. White's tanyard is situated, in the town of Raysville, Henry county, the same as above described, are hereby vacated, but in no wise to affect the streets and alleys that run through or by any other lots in said town.

SEC. 2. This act to be in force from and after its passage.

#### CHAPTER CCCXXVII

An Act to amend an act entitled "An act to incorporate the Lafayette Bridge Company," approved January 13th, 1845,

[APPROVED DECEMBER 15, 1847.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That said company are hereby authorized and empowered to locate and construct the bridge contemplated in said original act, across the Wabash river at any point within the corporate limits of said town of Lafayette, which they may deem practicable; which location shall be made on or before the first day of March, 1848.

SEC. 2. That so much of said original act as confines the location of said bridge to a point within the first or original town plat of said town of Lafayette, be and the same is hereby repealed.

SEC. 3. Should any stockholders of said company feel aggrieved at the location of said bridge, such stockholder may withdraw from said company, by filing with the directors thereof, within twenty days after such location, his dissent, in writing, which shall be immediately entered upon the records of said company; and thereupon such retiring stockholder shall cease to be a member of said company, and be fully discharged from the payment of the stock by him subscribed prior to said location under this act; *Provided*, That the stockholders of said company who have asked for this change in the location, shall not have the privilege of withdrawing under this act.

SEC. 4. Should any such retiring stockholder have paid the full amount of his stock, or any part thereof, prior to such withdrawal, the amount so paid shall, upon demand, be refunded by said company.

SEC. 5. This act shall be in force from and after its passage and publication in one or more of the newspapers published in the town of Lafayette, which publication shall be at the expense of said company.

#### CHAPTER CCCXXVIII

An Act to prohibit the sale of spirituous liquors and wines in Henry township, Henry county, Indiana.

[APPROVED FEBRUARY 2, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That it shall be unlawful for any person or persons to sell or barter any spirituous liquor or wine in any quantity whatever, in Henry township, in Henry county, in the State of Indiana; *Provided, however*, That nothing in this section shall be so construed as to prohibit any licensed merchant or druggist from selling or bartering any spirituous liquor or wine in said township for medicinal, mechanical, or sacramental purposes.

SEC. 2. Any person violating the provisions of the foregoing section of this act shall, on conviction on presentment or indictment in the Henry circuit court, be fined in any sum not less than five dollars nor to exceed fifty dollars. All laws and parts of laws conflicting with the provisions of this act, so far as relates to said township of Henry in said county, shall be and the same is hereby repealed.

SEC. 3. This act to take effect and be in force from and after its publication.

## CHAPTER CCCXXIX.

An Act to amend the charter of the city of New Albany.

[APPROVED JANUARY 18, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the mayor and council of the city of New Albany are hereby authorized, in the name of said city, to subscribe for, and to hold and dispose of, any amount of stock, not exceeding one hundred thousand dollars, in the New Albany and Salem Railroad Company, and to pay for the same by bonds to be issued by said city, in such several sums, not less than one hundred dollars each, payable at such time, and bearing such rate of interest, (not exceeding seven per centum per annum,) payable semi-annually, as may be agreed on by said railroad company, and said mayor and council. And said mayor and council are authorized to assess and cause to be collected (in addition to the ordinary taxes of said city) an annual tax of not exceeding ten per centum upon the amount of such bonds as shall at the time be outstanding, to be applied towards paying the principal and interest of such bonds.

SEC. 2. This act shall be published, at the expense of said city, four successive weeks in the New Albany Bulletin and the New Albany Democrat; and like notice shall be given of a meeting of the electors of said city to vote upon the acceptance or rejection of this act, which meeting shall be held at the usual places for holding elections therein, on such day and under such officers as said mayor and council shall appoint, and a return thereof shall be made to said mayor and council, and if upon such return it shall appear that a majority of all the electors so voting have voted to accept this act, said mayor and council shall so declare, and this act from the time of such declaration shall be in full force and effect.

SEC. 3. It is hereby made the duty of the Secretary of State to furnish a certified copy of this act to the mayor and council of the city of New Albany.

## CHAPTER CCCXXX.

An Act to amend an act, entitled "An Act to incorporate the Peru and Indianapolis Railroad Company."

[APPROVED JANUARY 13, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That so much of section twenty, of the act to which this is an amendment, be, and the same is hereby so amended as to authorize the board of directors to designate any point along or at either end of said [road] where the construction thereof shall commence, as in their judgment may be most advantageous to said company.

SEC. 2. The State of Indiana hereby relinquishes to said company the right of way on or along the berm bank of the northern division of the Central Canal: *Provided,* That the same shall not in any way obstruct the free passage of the water down said canal, nor in any way interfere with the navigation thereof.

SEC. 3. That the word "six," where it occurs in the twenty-fourth section of the act to which this is an amendment, be considered as stricken out, and the word "ten" inserted in lieu thereof.

SEC. 4. That section twenty-seven of said act is hereby repealed, and the state is hereby authorized to subscribe for any number of shares remaining unsubscribed for at any time after the organization of said company.

## CHAPTER CCCXXXI.

An Act prescribing the mode of selecting petit jurors in the county of Jay.

[APPROVED JANUARY 13, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That twelve petit jurors shall be selected by the board doing county business in the county of Jay, to attend on the first day of the term of the circuit court thereof, to serve six months from and after their selection.

SEC. 2. The county board aforesaid shall be governed, in selecting said jurors, in all respects by the provisions of the Revised Statutes of 1843, in such cases made and provided.

SEC. 3. All laws and parts of laws contravening the provisions of

this act are hereby repealed; and this act to take effect and be in force from and after the filing thereof in the clerk's office of the county of Jay. And it is hereby made the duty of the Secretary of State to forward a copy of this act to the clerk of Jay county on or before the first day of February, 1848.

### CHAPTER CCCXXXII.

An Act authorizing the Secretary of State to send to the county of Allen an additional number of copies of the Laws of the State.

[APPROVED JANUARY 13, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That it shall be the duty of the Secretary of State, in the annual distribution of the laws as authorized by sections seventy-two and seventy-three of chapter six of the Revised Statutes of 1843, to send to the county of Allen thirty-five copies in addition to the number now required by law.

SEC. 2. There shall also be sent to said county of Allen, with and in the same manner as the laws of the present session of the General Assembly are sent, fifteen copies of the Revised Statutes of 1838, twenty-five copies of the Revised Statutes of 1843, and twenty-five copies of the Laws of each session of the General Assembly from 1843 to the present session.

SEC. 3. Upon the receipt of said laws, the clerk of said county shall distribute to those officers authorized to receive them under existing laws.

This act to be in force from and after its passage.

### CHAPTER CCCXXXIII.

A Joint Resolution for the relief of John R. Jones and John D. Furguson.

[APPROVED DECEMBER 11, 1847.]

WHEREAS, John R. Jones, late Secretary of the Senate of Indiana, did, at the commencement of the session of the General Assembly for 1847-8, attend upon the Senate for the purpose of organizing said body according to usage: Therefore,

*Be it resolved by the General Assembly of the State of Indiana*, That the Treasurer of State is hereby authorized to pay said John R. Jones the sum of thirty dollars, the usual amount paid for such services, out of any moneys now in the treasury not otherwise appropriated.

*And be it further resolved*, That John D. Furguson be allowed the sum of eight dollars for services as Principal Secretary of the Senate at its present session, to be paid out of any moneys not otherwise appropriated.

### CHAPTER CCCXXXIV.

An Act to amend the charter of the Madison and Napoleon Turnpike Company.

[APPROVED FEBRUARY 11, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the names of J. F. D. Lanier, John Woodburn, Johnathan Fitch, and Robert Kinnear be added to the list of directors named in the first section of the act to which this is an amendment.

SEC. 2. That the fourth section of said act be so amended as to reduce the capital stock to one hundred and fifty thousand dollars.

SEC. 3. The corporation shall throw up at least eighteen feet in width of said road so as to make a regular curve, and cover the same with stone or gravel well compacted together, so as, at all times, to secure a firm and even road.

SEC. 4. The sixth section of said act is hereby repealed.

SEC. 5. This act shall be in force from and after its passage, and all laws and parts of laws contravening the provisions of this act are hereby repealed.

## CHAPTER CCCXXXV.

An Act to incorporate the Franklin Institute of Richmond University.

[APPROVED JANUARY 29, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That Hermon B. Payne, Daniel Roberts, James M. Hays, Elam J. Brown, Claudius Biles, James B. Hunnicut, Samuel McClure, Evan Wright, William Blanchard, Noah S. Leeds, William G. Scott, Edwin W. Morrison, Thomas Vickers, and all others who are or may hereafter become members of the Richmond Franklin Institute, shall be, and are hereby constituted and appointed a body corporate and politic in law, by the name of the Franklin Institute of the Richmond University, and by such name shall have perpetual succession and exist forever, and to be for mutual improvement, and the cultivation of literature, the arts and sciences.

SEC. 2. The said institute may contract and be contracted with, plead and be impleaded in all courts of law and equity in this state or elsewhere, may have and use a common seal, and may break, alter, and renew the same at pleasure.

SEC. 3. They shall be capable of acquiring and holding property, real, personal, and mixed by gift, purchase, grant, or devise, not exceeding in value, at any one time, the sum of fifty thousand dollars, and may sell, convey, and dispose of the same at pleasure. They shall have power to form a constitution and by-laws for the government of said corporation, the admission of members, the expulsion of the same, and the appointment or election of officers, together with all the powers necessary for the corporate existence and the proper and efficient management of its property and concerns: *Provided*, That said constitution and by-laws be not inconsistent with the constitution and laws of this state or the United States: *Provided, also*, That none of the stock or property of said corporation, shall be used for any other than the purposes aforesaid, and the purchase of books, maps, charts, specimens of the arts, cabinets, scientific and philosophical apparatus, land, buildings and furniture, necessary for the use and convenience of said corporation.

SEC. 4. This act shall be construed liberally for the purposes aforesaid, and shall be taken and received in all courts as a public act, and take effect from and after its passage.

## CHAPTER CCCXXXVI.

An Act to amend an act incorporating the Brookville and Cincinnati Turnpike Company.

[APPROVED JANUARY 29, 1848.]

WHEREAS, Samuel Goodwin, Joseph Goudy, and others, under and by virtue of an act to incorporate certain turnpike companies therein named, approved January 29, 1839, and an act to revive a certain act therein named, (being the act aforesaid,) approved January 19, 1846, opened books for subscription to the capital stock of the Franklin Turnpike Company, named in said acts. AND, WHEREAS, The directors aforesaid, and their successors in office, have proceeded to locate said Franklin turnpike road, and made certain contracts for the construction of said road without a formal election of directors by the stockholders in said company, because, under said act of incorporation, such election by the stockholders could not take place until one thousand shares of said capital stock had been subscribed and five dollars on each share paid: AND, WHEREAS, Also; the said road can be completed for a much less amount than the said one thousand shares: Therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That all the acts, doings, proceedings, contracts, engagements, stipulations, and locations made by the said directors named in said act, and their successors in office be, and the same are hereby, ratified, approved, confirmed, and made as binding as though said acts, doings, proceedings, contracts, engagements, stipulations, and locations had been made by directors elected by the stockholders in said company after the said one thousand shares had been subscribed and said five dollars on each share paid, as contemplated by said act.

SEC. 2. *Be it further enacted*, That, so soon as four hundred shares are subscribed of the capital stock in said company, it shall be lawful to call an election for directors of said company, as provided in the 7th section of the original act of incorporation to which this is an amendment, without waiting to have the one thousand shares subscribed, or the five dollars paid, as in that section contemplated.

SEC. 3. *Be it further enacted*, That the twentieth section of the original act, to which this is an amendment, be so amended as to allow and permit said company to make artificial road, composed of stone ground, [gravel] or other suitable material, &c., sixteen feet wide instead of twenty feet, as contemplated in that section.

SEC. 4. *Be it further enacted*, That Scipio and Mount Carmel are hereby made points in said turnpike road.

SEC. 5. *Be it further enacted*, That the twenty-second section of the said original act be, and the same is hereby, amended so as to

authorize said Franklin Turnpike Company to erect toll gates and receive tolls so soon as five continuous miles of said road is constructed.

SEC. 6. *Be it further enacted*, That the said directors, named in said original act, and their successors be, and they are hereby, fully authorized to do all acts necessary to the construction and completion of said road, until directors shall be elected by the stockholders of said company, and enter upon the discharge of their duties as such.

## CHAPTER CCCXXXVII.

An Act to amend the record of the town of Huntington.

[APPROVED FEBRUARY 11, 1848.]

WHEREAS, It has been represented to the General Assembly of the State of Indiana, that the plat of the town of Huntington, in Huntington county, in said state, as laid off and surveyed by the late John Tipton, since deceased, has been defectively recorded in the recorder's office of said county, in this, that the said plat was recorded without any explanatory notes showing the location of the town, its meets and bounds, the courses and directions of the streets, the size of the lots, and the width of the streets and alleys: Therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the circuit court of Huntington county, upon the petition of one or more freehold citizens of said town, praying for an amendment of said record, shall order a public notice of the pendency of said petition to be given by publication in some newspaper, as said court shall direct, requiring all persons interested to appear at the next succeeding term of said court, and show cause, if any they have, why the record of said plat of the said town of Huntington shall not be so amended; which notice shall be published four successive weeks, at least sixty days before the first day of the next succeeding term of said court.

SEC. 2. Upon the calling of the cause in said circuit court, and due proof of the publication of said notice, as above provided, if no person appears to contest the same, or appearing, shall fail to show any good cause why said record should not be so amended, said court shall, upon sufficient evidence of the original survey of said town, its location and description, order the county surveyor of said county to make out a new plat of said original survey, with the

proper explanatory notes and references, supplying all the defects of the recorded plat of said town, and report the same to the said court for their approval.

SEC. 3. If said circuit court shall approve the plat so made and returned by said county surveyor, the same shall be recorded in the records of said county, and also by the recorder of said county; and such record shall have the same force and effect for all purposes and intents, as if the same had been so made and recorded by the said John Tipton in his lifetime, who was the proprietor as aforesaid, according to law in such cases made and provided.

SEC. 4. The clerk of said circuit court shall certify to the auditor of said county a bill of all the costs, as the same shall be allowed and taxed by said court; and said auditor shall assess and charge the same, together with the expenses of auditing and collecting the same (unless the same shall be voluntarily paid) as a special tax upon the real estate of said town of Huntington, which shall be collected by the treasurer, in the same manner as other taxes, and shall be paid over by such treasurer to the clerk of said circuit court.

SEC. 5. This act shall be deemed and taken to be a public act, and shall be in force from and after its passage.

## CHAPTER CCCXXXVIII.

An Act to incorporate the Richmond University.

[APPROVED FEBRUARY 14, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That David P. Holloway, Samuel E. Perkins, Albert C. Blanchard, Benjamin Stratton, James Perry, George Fiske, William Boye, Basil Brightwell, William B. Smith, Thomas Butler, John H. Hutton, Alexander Porter, Stephen B. Stanton, Francis P. Monfort, James Burgess, Stephen R. Wiggins, Samuel R. Lippincott, Herman B. Payne, John S. Lyle, Joseph W. Howel, William Findley, Ralph A. Paige, James Elder, and Oliver Butler, and their associates, and successors in office be, and they are hereby, appointed and constituted a body corporate and politic in law, by the name and style of "The Trustees of Richmond University," and by that name and style shall have succession and power.

SEC. 2. The whole number of trustees shall not be more than twenty-four nor less than sixteen, unless by removal, death, resignation, or otherwise; in which cases the vacancies shall be filled

as hereinafter provided. The said board of trustees shall hold their first meeting whenever a majority of the directors may agree, at such place in the city of Richmond as a majority of them may designate, and any seven of them shall constitute a quorum to do business, and the board shall thereafter meet annually, or oftener, at such times and places as they shall appoint. They shall, at their first meeting, divide their numbers into four equal classes as near as may be—the first class shall go out of office on the 17th day of January, 1849, the second class on the 17th of January, 1850, the third class on the 17th of January, 1851, the fourth class on the 17th of January, 1852, and in the same manner forever afterwards, so that one-fourth of the whole number shall go out annually: *Provided*, That they shall continue to hold their offices until their successors are elected and qualified. Whenever any vacancy shall occur, as above mentioned, the board, as soon as convenient thereafter, shall elect another, who shall hold his office during the unexpired term of such vacancy. One-fourth of the trustees shall be elected annually, on the first Monday in January, by the stockholders, each stockholder of not less than ten dollars, being entitled to one vote, to be given by himself, his agent, or proxy. Said trustees to enter upon their duties on the 17th day of January, following their election. Whenever the 17th of January shall occur on the Sabbath, the Monday following shall be taken instead thereof.

SEC. 3. The said trustees shall have power to elect a president of their own body, a secretary and treasurer, and such officers as they may think proper, whose duties and terms of office shall be such as the board may appoint, and to remove the same; to establish such ordinances and by-laws, not contrary to the constitution and laws of this state, or of the United States, as they may deem necessary for their own government; to found in the city of Richmond, Indiana, an institution for the education of the sons of the citizens of this and other states, of every class and denomination, who may resort to it,—which institution shall be known by the name of "Richmond University;" to establish in said university professorships for the instruction of the students thereof in the several branches of liberal learning; to determine the course of studies; to appoint a president, professors, and other instructors therein, as they shall think proper, and to remove the same at any regular meeting of the board, by a vote of a majority of the whole number of the members thereof, after due notice shall have been given to each member of the object of the meeting.

SEC. 4. The president and professors shall be known by the name of the Faculty of Richmond University, and shall have power to conduct the institution and government of the students of the said university, subject to such ordinances as the trustees may establish; to grant all such degrees in the liberal learning, arts, and sciences, as are customary in other universities, and to give diplomas or certificates of the same, subscribed by the president and professors, and authenticated by the common seal of the university.

SEC. 5. The said trustees and their successors shall also have power to make and use a common seal, to alter and renew at pleasure; they shall be capable of acquiring and holding property—real, personal, and mixed, for the purposes aforesaid, by purchase, gift, grant, or devise, not exceeding in value at any one time, the sum of one hundred thousand dollars, and to sell, convey, and dispose of the same at pleasure; to contract and be contracted with, to sue and be sued, plead and be impleaded, before any justice, or in any court or courts in this state or elsewhere, in as full and efficient a manner as any other body politic or corporate of similar nature within this state may do; they may receive subscriptions of stock for the purposes aforesaid,—shall have power to collect the same, and shall issue certificates therefor. The capital stock of said university shall be divided into shares of twenty-five dollars each, and shall be held, used, and managed exclusively for educational purposes as aforesaid; and the said trustees shall have power to do and perform whatever is necessary to found, put, and continue in successful operation the said Richmond university.

SEC. 6. The said trustees shall cause [the] treasurer to enter upon a book to be kept by him for that purpose, the amount of all moneys received for the use of said university, the names of the persons from whom, and at what time received; and also the amount of all moneys paid out, and the purposes for which the same was paid or expended; and also, in another part of said book, a list of all the property and other effects received for the use and benefit of said university, and all that may be sold or otherwise disposed of; which book shall be open to the inspection of the stockholders.

SEC. 7. This act is declared to be a public act, and shall be liberally construed for the purposes intended, and no omission to use any of the privileges hereby granted shall work a forfeiture of the same; nor shall any gift, grant, conveyance, devise, or subscription to, or for the use of said university, be defeated or prejudiced on account of any informality: *Provided*, The intention of the parties be shown.

SEC. 8. The state reserves the right to alter or abolish or amend this act at any time, by a vote of not less than two-thirds of each branch of the General Assembly: *Provided*, That no alteration shall be made to affect the fundamental principles or objects for which this institution is established.

SEC. 9. This act to take effect and be in force from and after its passage.

## CHAPTER CCCXXXIX.

An Act to authorize Hiram S. Brady, of Laporte county, to file his bill in chancery.

[APPROVED DECEMBER 17, 1847.]

WHEREAS, it is represented to this General Assembly that Mary Brady, wife of Hiram S. Brady, has been guilty of adultery, and that said Hiram is now a citizen of Laporte county, but that he has not resided in this state two years; Therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That said Hiram S. Brady is hereby authorized to file his bill for divorce against said Mary Brady in the Laporte circuit court, and on the filing thereof said court shall have and entertain jurisdiction of said cause, and the same proceedings and decrees shall be had and rendered in the premises as if the said Hiram S. Brady had been a citizen and resident of this state for two years immediately preceding the filing of said bill.

Sec. 2. This act shall be a public act, and shall be in force from and after its passage; and the secretary of state shall immediately send a certified copy thereof to the clerk of the said Laporte circuit court.

## CHAPTER CCCXL.

An Act to incorporate the French Lick Steam Mill Company.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That William A. Bowles, John Pinnick, Azor Charles, John Hungate, junior, and Samuel Wolfington, of the county of Orange, and their successors in office, be, and they are hereby, constituted a body politic and corporate by the name and style of the "President and Directors of the French Lick Steam Mill Company," and shall be able and capable in any court of law or equity to sue and be sued, to plead and be impleaded, to answer and be answered unto, to make and use a common seal, and the same to alter or change at pleasure, and shall be able in law to make contracts, and make and enforce the necessary by-laws, rules, and regulations to enable them to carry into effect the provisions

of this act, and the objects contemplated by the same, not inconsistent with the laws and constitution of this state.

SEC. 2. The capital stock of said corporation shall be ten thousand dollars, and shall be divided into shares of twenty-five dollars each, and payable in six, twelve, and eighteen months, from the first of March, 1848.

SEC. 3. When the sum of twenty-five hundred dollars shall be subscribed for and the shares taken by responsible persons, the directors in this act named, or a majority of them, shall meet at such time and place as they may agree upon and organize said corporation by electing one of their number named in this act president; after organization, any three of said board shall be a quorum for the transaction of business.

SEC. 4. The board of directors shall have power to appoint agents, clerks, treasurers, engineers, superintendents, and all other officers and persons necessary to carry into effect the provisions of this act; shall keep a journal of their proceedings, in which shall be entered all by-laws, rules, and regulations, and all orders or such allowances as may be made from time to time to their officers and aliothers in their employment, which journal and proceedings shall be signed by the president from time to time at their meetings of business. They may set on their own adjournments, or on the call of the president, and when the president is absent may appoint a president *pro tempore*; and any three of the directors shall have power to fill all vacancies that may occur in their own body, by death, resignation, or otherwise.

SEC. 5. The stockholders shall, on the first Monday in January, 1849, or on such other day of said month as may be designated by the president or directors, proceed to elect five directors, who shall be stockholders, to serve for the term of one year, and until their successors are elected and qualified; all subsequent elections shall be held on the first Monday in January annually thereafter, or on such day of said month as the president and directors may designate.

SEC. 6. All elections shall be by ballot, and a majority of all the votes present, allowing one vote for each share, shall be necessary to a choice.

SEC. 7. All elections shall be held at or near the French Lick, under the inspection of the president or directors, who shall count the votes and give certificates of election to such as may be legally chosen.

SEC. 8. The directors under the provisions of this act, as soon as practicable after their election, shall proceed to elect one of their body president for the term of one year, and until his successor shall be elected and qualified.

SEC. 9. The president shall make an annual exhibit of the state of the funds and business operations of the company.

SEC. 10. The said stockholders shall each be liable to all creditors in his individual capacity to the amount of his stock, on failure

of a sufficiency of property belonging to said corporation; *Provided*, That said corporation shall at no one time be indebted to an amount greater than the stock held by said company. In case of excess, the directors under whose administration the same may happen, and by whose order or vote the same may have been created, shall be responsible therefor in their individual capacity; but nothing in this section shall be so construed as to exempt the corporation from being also liable for such excess.

SEC. 11. The president and directors shall have power to receive, and, by due course of law, to collect all subscriptions for the purpose of raising the funds necessary to carry into effect the objects of this corporation; and shall be entitled to receive ten per centum damages on any installment or part of an installment of stock which shall not be paid pursuant to the terms of subscription and requisition of the board of directors, or the said board may, in their discretion, after any failure to pay installments of stock as required, declare the part of said stock before paid in on such share or shares forfeited to the company; *Provided*, That public notice shall be given in the township of the requisition at least twenty days before such part of the stock shall be declared forfeited.

SEC. 12. The stock of said corporation shall be assignable according to such rules and regulations as may be made and established by the directors, and shall be considered personal property; *Provided*, That no transfer of stock shall be valid until registered in a book to be kept for that purpose by the president, which books shall at all times of business be open to the examination of any stockholder, or any person having a demand against the corporation, or any member of it; and in case any member of the corporation, or other person having charge of said book, shall refuse to permit the same to be examined as aforesaid, shall, for every such offence, forfeit and pay the sum of twenty dollars to the common school fund of French Lick township, together with costs of suit, to be recovered by action of debt at the instance of the party aggrieved, and moreover, shall be liable in damages to the person injured to the amount of damages sustained.

SEC. 13. This act to be received as a public act, and shall take effect and be in force from and after its passage; *Provided*, however, That nothing in the same shall be so construed as to prevent the General Assembly at any time from amending, altering, or repealing this charter; *And provided, also*, That nothing in this act shall be construed to authorize this corporation to issue scrip.

## CHAPTER CCCXLI.

An Act to incorporate the Fairfield Hydraulic Company.

[APPROVED FEBRUARY 12 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That E. D. Crookshanks, James N. McManus, Aaron Martens, S. P. Oaks, and Hezekiah Ogden, of Franklin county, and their successors in office, be, and they are hereby created a body corporate and politic by the name and style of "the Fairfield Hydraulic Company," with power to sue and be sued, plead and be impleaded contract and be contracted with.

SEC. 2. The capital stock of said corporation shall be thirty thousand dollars, divided into shares of fifty dollars each.

SEC. 3. That said corporators and their successors, may open books for the subscription to the capital stock of said company; and may regulate the time and modes of payment, and affix forfeiture of the same or any part of the same, for default to make payment of said stock, and shall have power to make pro rata assessments upon the capital stock subscribed for the payment of liabilities contracted, in the legitimate business of said corporation by its directors.

SEC. 4. Said corporation shall have power to erect a dam across the east fork of White Water river, to cut races or canals to conduct the water to their mills, erection and machinery, and shall have power to purchase real estate for the erection of mills, and the right of way and water, and shall be entitled to the benefit of the writ of *ad quod damnum*; it shall have power to erect mills and manufacturing establishments, and the purchase of machinery and the prosecution of any manufacturing business.

SEC. 5. The members of said corporation shall be individually liable for the debts of said corporation, after all its property subject to execution shall have been exhausted.

SEC. 6. Said corporation shall not issue any notes or bills for circulation.

SEC. 7. Said corporation shall have power to employ agents for its business, and to buy the raw material to be manufactured, and any other personal property that may be connected with, or contribute to its main business, and the same to sell at pleasure.

SEC. 8. Upon the dissolution of said corporation its property shall be distributed among the stockholders, in proportion to their interest after the payment of all dues and liabilities.

SEC. 9. The persons first named shall exercise the powers herein granted, until their successors are appointed by the stockholders in said corporation, each share being entitled to one vote; and directors shall be elected annually at such time and place as the said corporation shall designate.

SEC. 10. The said corporation shall be organized when five thousand dollars shall have been subscribed, of said stock.

SEC. 11. This act shall take effect from and after its passage.

## CHAPTER CCCLXII.

An Act to incorporate the Eel river Manufacturing Company at Logansport.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That Philip Pollard, John W. Wright, John Green, William Z. Stewart, Jordan Vigus, George W. Bruce, and John Lytle, together with such other persons as may associate for the purpose of prosecuting a general business, but more especially that of milling and manufacturing, to be established at Logansport in Cass county, and located at or near the mouth of Eel river, on the north bank of said river, be, and the same are hereby ordained, constituted, and declared to be a body politic and corporate to all intents and purposes, to be known and designated by the name of the Eel river Manufacturing Company, by which name they and their successors and assigns, shall have perpetual succession and be entitled to all the privileges and immunities of the laws of this State, as a body politic and corporate, such as contracting and being contracted with, suing and if necessary being sued, pleading and being impleaded, defending and being defended in any court of competent jurisdiction, and that they and their successors may have a common seal, and may make and alter the same at pleasure, and that they and their successors as a body corporate by the aforesaid name, shall be competent and capable of purchasing, holding, using, and conveying any property or estate whatsoever, real, personal or mixed, that may by them be deemed necessary to the prosecution of their designs as aforesaid, and of the said corporation as herein described.

SEC. 2. That the capital stock of said corporation shall be one hundred thousand dollars, consisting of four thousand shares of twenty five dollars each, that it shall nevertheless be lawful for said corporation as soon as ten thousand dollars shall have been subscribed to its capital stock as aforesaid, to commence their business and they then shall be entitled to all the privileges of extending the amount of the capital stock by subscription, until it amounts to the said sum of one hundred thousand dollars, as the interest of the business of said corporation may require, and that the aforesaid Philip Pollard, John W. Wright, John Green, William Z. Stewart,

Jordan Vigus, George W. Bruce, and John Lytle, or any five of them are constituted commissioners, and as such, are hereby authorized to open books and receive subscriptions to said stock at such places as they may deem expedient, after the passage of this act; which subscription shall be paid at such times and in such manner as the board of directors to be elected as hereinafter mentioned, shall order and direct.

SEC. 3. That as soon as ten thousand dollars shall be subscribed to the capital stock of said corporation, the aforesaid commissioners or any five of them, shall proceed to order an election of seven directors, who shall have the whole management of the stock property, and concerns of said corporation. Said commissioners shall give at least sixty days notice of said election, by publication in any newspaper printed at Logansport. The said directors shall be chosen by ballot from among the stockholders, and shall hold their office for one year from the time of their election, and until others are elected to succeed them, and they shall be elected by a majority of the votes given by the stockholders present, or by written proxy of those not present at the time of holding said election; each stockholder shall be entitled to one vote for each share he may hold in said capital stock, to the number of ten shares, and for each and every ten shares over and above the first ten shares, one vote for every ten shares so held by him at the time of such election, which shall be held in Logansport, and in said town annually thereafter, on a day to be appointed by the board of directors. The commissioners as hereinbefore named, or any five of them, shall act as judges and shall manage and conduct the first election for directors of said corporation, and the directors elected at each and every successive annual election thereafter, shall appoint three stockholders to act as judges for the succeeding election, of which election said judges or the secretary, shall give notice by publication in any newspaper printed at Logansport, at least sixty days preceding the day of election, and in case of vacancy in the said board of directors by death or any other cause, the remaining members of said board shall have power to fill such vacancy by appointment from among the stockholders.

SEC. 4. In case it should at any time happen that an election should not be made on any day, when in pursuance of this act it should or ought to have been made, the said corporation shall not in consequence thereof be dissolved, but it shall be lawful on any other day to hold an election for directors in such manner as shall be regulated by the by-laws and ordinances of said corporation.

SEC. 5. A majority of the directors shall form a quorum, capable to transact the business of said company, and may enact such by-laws, rules and regulations as they may deem necessary for the government of said corporation; *Provided*, Such by-laws, rules and regulations be compatible with the constitution and laws of this state and of the United States, and to be subject to revision and amendment by the stockholders, at any general meeting represent-

ing a majority of the stock in said corporation; the said board of directors shall have full power and authority to put into operation all the designs contemplated in this act.

SEC. 6. The stock of said corporation shall be considered as personal property, and shall be assignable agreeably to such rules and regulations as the board of directors may at any time make and prescribe; *Provided*, That no transaction in the capital of said stock shall be valid until the same shall be entered as a matter of record on the books of said company, nor until all claims which said company may have against said stockholder shall be liquidated.

SEC. 7. The directors shall have power to receive, and by due course of law, to collect all subscriptions, for the purpose of raising the funds necessary to carry into effect the object of said corporation, and shall be entitled to receive ten per centum damages on any installment of stock, which shall not be paid pursuant to the requisition of the board of directors, or the said board may in their discretion, after failure to pay any installment of such stock as required, declare the part of said stock before paid in by any subscriber so failing to pay, forfeited to the use of the company; *Provided*, Notice of such requisition be given by publication in any newspaper printed at Logansport, at least sixty days before such installment may be payable, specifying the amount and when due.

SEC. 8. The corporation shall require of all officers in their employment, bonds with security to be approved of by the board of directors, with such penalties as the said board may deem proper, for the faithful performance of their respective duties.

SEC. 9. The board of directors shall appoint a president of said company who shall be one of their own body, one treasurer, and one secretary who shall report the state and condition of the business and affairs of said company, at least once in six months to the board of directors, and as much oftener as said board may require of them. The said treasurer shall receive, and under the direction of the board of directors, safely keep all money coming into his hands belonging to said company, and pay out the same upon the orders of said board, he shall perform such other duties as may be assigned to him by said board. The secretary shall keep a record in a book to be provided by the board for that purpose, of all the acts and doings of said company at its general and special meetings, and of the acts and proceedings of the board of directors at their meetings, together with any other records which may be deemed essential or necessary to a full understanding or complete exposure of all the transactions of the said company, which record shall at all proper business days or hours be open for the inspection of the stockholders.

SEC. 10. Said corporation shall at no time make or issue any paper to circulate as bank paper, or in any manner engage in the business of banking, and if the president and directors or either of them, individually or collectively, shall at any time misapply or di-

vert the funds or property of said corporation entrusted to their management from their legitimate purpose and object, he or they so misapplying or diverting the funds or property as aforesaid, shall upon conviction be ineligible to, and removed from office, and become individually liable to said corporation for any damages sustained by said corporation by reason of such misapplication or abuse of trust, to be recovered in an action for damages before any court having jurisdiction in the case.

SEC. 11. The directors of said corporation shall be liable in their individual capacity for all debts contracted over and above the amount of solvent stocks subscribed.

SEC. 12. This act shall be, and is hereby declared to be, a public act for the purposes herein specified, to continue and remain in full force for and during fifty years, to take effect from and after its passage.

[The foregoing bill was presented to me on the seventh day of February, 1848, for approval, but official business having prevented the desired research, it has not been approved nor returned to the Senate with my objections, down to this, 14th day of February, 1848, and has therefore become a law. JA'S. WHITCOMB.]

## CHAPTER CCCXLIII.

An Act to incorporate the Monticello Hydraulic Company.

[APPROVED FEBRUARY 12, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That Philip Wolverton, John Burn, Ashley L. Pierce, Henry Ensmenger, Randolph Braley, John C. Mariam, Zachariah Van Buskirk, Isaac Reynolds, and Zebulon Sheets, of White county, and their successors in office, be and they are hereby constituted a body politic and corporate, under the name and style of "The Monticello Hydraulic Company," and by that name shall be capable in law and equity to sue and be sued, plead and be impleaded, answer and be answered unto in all courts whatever; to make and use a common seal, and the same to alter, change, or abolish at pleasure; and shall be and are hereby authorized and empowered to make contracts, and to make and enforce the necessary by-laws, rules and regulations to enable them to carry into effect the provisions of this act, and the effects contemplated by the same, not inconsistent with the laws and constitution of this state.

SEC. 2. The capital stock of said company shall be thirty thousand dollars, with power on the part of said corporation to increase

the capital stock, if necessary to accomplish the objects herein contemplated.

SEC. 3. The persons named in the first section of this act, and their associates, or a majority of them, or a majority of the survivors of them, shall cause books for subscription to the capital stock of said company to be opened at such times and places as they may choose, after giving ten days' notice thereof in writing, posted up in some three different public places said county or by giving ten days' public notice thereof in some public newspaper in said county, in each of which books the following entry shall be made: "We the undersigned promise to pay the sum of twenty-five dollars each for each share of stock set opposite our respective names, in such manner and proportions and at such times as the Monticello Hydraulic Company may direct. Witness our hands this day of A. D., 184 ."

SEC. 4. It shall be lawful for all persons of lawful age, or for any corporate body in the United States, by their constituted officers or agents to subscribe for any amount of the capital stock of said company; and the said corporation may, by their officers or agents, offer for sale in any of the states of the United States, any amount of their stock upon such terms and conditions, and upon such notice as may be thought advisable, and said corporation shall have power to borrow money on their own credit on such terms as may be agreed upon by the parties. The said corporation may require such sums of money to be paid at the time of subscribing for stock, not exceeding five dollars on each share, as they may think proper; but the amount required to be paid on each share shall be made known in the notice for opening the books, and any further installments or payments on stock shall be under the control of and regulated by the said directors, subject to the restrictions hereinafter mentioned.

SEC. 5. As soon as one hundred and sixty shares of said capital stock are subscribed for, and the amount required in said notice to be paid on each share at the time of subscription shall have been paid in, it shall be the duty of said corporation to give twenty days' notice thereof in some public newspaper in White county; but if no such paper be published in said county, then by written notices posted up at the court house door of said county, and in said notice appoint a time and place for the stockholders to meet and elect five directors, who shall be stockholders and citizens of this state; and which election shall be by ballot, and to be conducted under the superintendence of three judges to be selected by the persons named in the first section of this act, and their associates or survivors, or a majority of them, and the five persons receiving the highest number of votes shall be declared duly elected, and receive a certificate of their election from said judges, (and as soon as sworn into office may take charge of the business and effects of said corporation and proceed to business,) whether it constitutes a majority of all the votes of said corporation or not, and if two or more per-

sons receive an equal number of votes, the said judges shall determine the election between such persons by lot. Such election shall be opened between the hours of nine o'clock A. M., and closed at four o'clock P. M., unless for the purpose of receiving votes there offered it shall be necessary to continue the election until six o'clock P. M., at which time it shall be closed.

SEC. 6. In all elections each share shall entitle the owner or owners thereof to one vote, and to one vote for every other two shares so held by him, her, or themselves, or by his, her, or their agents, proxies, or legal representatives. Authority to vote by proxy may be given by the party, in writing, under his, her, or their hands, without seal or acknowledgment, before any officer, but must be dated thirty days prior to such election. Infant stockholders may vote by guardian and *femmes coverts* by their husbands.

SEC. 7. It shall be the duty of the directors elected as above, and those elected at all subsequent elections, to elect one of their own body president. The president and directors thus elected shall continue in office until the next annual election, and until their successors are elected and qualified; but the term of the first board of directors thus chosen shall expire so soon as their immediate successors are elected and qualified.

SEC. 8. All elections for directors, after the first, shall be held on the first Monday in June in each year, the judges thereof to be appointed by the board of directors for the time being, and shall be conducted in all respects as provided in section six in this act, and on similar notice. But should the stockholders at any annual election neglect or fail to elect directors as provided in this act, the company shall not on that account be dissolved, but the president and directors for the time being shall continue to exercise the duties of their office until their successors are chosen and qualified as aforesaid.

SEC. 9. Certificates of stock shall be given to the stockholders, which shall be evidence of the stock held by him, her, or them; such certificates shall be signed by the president and countersigned by the clerk of said company; the stock shall be transferred on the books of the corporation only by the person or persons owning the same in person, or by their legally constituted agent or agents, attorney or attorneys, or by their legal representatives, trustee, or guardian. And such stock shall be at all times holden by the corporation for any dues by the owner thereof to the corporation, or for any sums that may thereafter become due on any contract made with said corporation prior to such transfer.

SEC. 10. The said corporation shall have power to call for such portions of the stock subscribed for, not exceeding twenty-five per centum every sixty days, as they may think proper to be paid at such time and place as they may designate, by giving thirty days' notice thereof in some newspaper in said county, or by giving to the stockholders written notice, in which notice shall be specified the amount called for and demanded on each share and the time

and place of payment, and if any stockholder shall fail, neglect, or refuse to pay the sum so called for, on his, her, or their stock, within ten days after the time named for such payment in said notice, the corporation may bring suit against such delinquent, for the amount due and called for, in any court having jurisdiction, and recover the amount so called for and unpaid, in an action of debt, together with interest from the time of such failure, neglect, or refusal, and the evidence to establish such claim of the corporation shall be the order in the journal of the proceedings of said corporation, calling for the installment on the stock and proof that the notice above specified had been given; and if the amount so recovered against such delinquent cannot be made on execution, or if such delinquent is out of the state, so that legal process, at the commencement of the suit, cannot be served upon him, then the corporation may, by an order on their said journal of proceedings, declare such stock and all that may have been paid thereon as forfeited to the corporation; but said stock may be redeemed by the said delinquent at any time within three months thereafter by paying up all such arrearages, with interest, together with six per centum damages; and no delinquent, after the failure, neglect, or refusal aforesaid, and before the stock shall be declared forfeited to the corporation, shall have a right to vote for directors or to receive any dividend on his, her, or their stock, until the corporation is fully paid and satisfied; and should any such delinquent be a director in said corporation, his office of director may be by the balance of said board declared vacated, and they may proceed to fill, from the qualified stockholders of said corporation, such vacancy in said board of directors, and the person so appointed shall hold his office until the next annual election and until his successor is elected and qualified.

SEC. 11. A majority of the board of directors shall constitute a quorum to transact business. Any vacancy happening in the board by refusal to accept, death, or other cause, may be filled for the unexpired term by the balance of the board. The said corporation may require of the directors, and of all other officers in their employ, bonds in such penalties and with such security as they may think proper for the faithful performance of their respective duties. The corporation may appoint a treasurer and clerks, and such other officers and agents as they may think needful, and require bond and security for the faithful performance of their duties.

SEC. 12. All process against said corporation may be served upon the president or upon any one of the directors, which shall be deemed sufficient service against said corporation.

SEC. 13. The said corporation shall have power by themselves or agents, to construct a dam across the Tippecanoe river above the town of Monticello, at any point within one mile of said town, and to construct a race or canal for the purpose of conveying the water from said dam, or from the pool thereof, and extend the same to or below said town. The said corporation may erect any and all necessary buildings, structures, and machinery for the purpose

of carrying on any branch of manufacturing business by means of the water power to be obtained from their work. They may, by purchase or relinquishment from the owner or owners, or by any proper mode of transfer, hold such real estate and personal estate, as may be necessary for the construction of their works, or for carrying on their business, or for the collection of their debts, and may, when needful, sell or dispose of the same, which conveyance of real estate shall be signed by the president of said corporation.

SEC. 14. The said company shall have and may use the writ of *ad quod damnum*, and all the benefits arising from the law allowing such writ for the purpose of having condemned the necessary quantity of ground for the erection of abutments, the digging of their race or canal, and for the overflow of lands occasioned by said dam.

SEC. 15. The said corporation shall cause to be kept a fair account of the costs of their works, and of all their expenditures; and they shall keep an account of their proceedings in proper books. The books of the corporation shall be kept open at all reasonable times for the inspection of stockholders and creditors of the corporation.

SEC. 16. The stockholders shall be individually liable for all debts against the corporation to the extent of and in proportion to the stock held by each stockholder on the insolvency of the company.

SEC. 17. All moneys to be paid out and expended by said corporation shall be done by order of the board of directors; which order shall be entered on their journal, and an order by the clerk of said corporation, drawn on the treasurer, shall be a sufficient voucher to him to pay over money.

SEC. 18. The Legislature reserves the right to alter, amend, or repeal this act whenever said corporation shall violate any provisions of this act; and in case of the repeal at any time of the corporate powers hereby vested, the assets of said corporation over and above liabilities shall revert to the stockholders in proportion to the stock by them held.

SEC. 19. This act is hereby declared to be a public act and shall receive a liberal construction, and be in force from and after its passage.

## CHAPTER CCCXLIV.

An Act to incorporate the Rushville and Lawrenceburgh Railroad Company.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That George H. Dunn, Omer Tousey, Johnathan Blasdel, Thomas Wheatly, Woodson Clark, Archibald Kennedy, Robert S. Cox, Hugh B. Cowan, and Luis Salla, and their successors in office duly elected as hereinafter provided, are hereby constituted and appointed a body politic and corporate, by the name and style of the "President and Directors of the Rushville and Lawrenceburgh Railroad Company," and by such name shall be capable to sue and be sued, plead and be impleaded, answer and be answered unto, either in law or equity, in any court of competent jurisdiction within this state, and shall have power to make and use a common seal, and the same to alter at pleasure, and to make contracts and enforce the same, and to establish and put in force such by-laws, rules and regulations as may be necessary to carry into effect the provisions of this act, not inconsistent with the constitution and laws of this state and of the United States.

SEC. 2. The capital stock of said company shall be two hundred thousand dollars to be divided into shares of fifty dollars each.

SEC. 3. The directors named in this act, or a majority of them, may meet at such time and place as may be agreed upon, and organize said corporation by the election of one of their body as president, and after such organization, any five members of said board shall constitute a quorum for the transaction of business.

SEC. 4. The corporation shall have power to appoint agents, clerks, treasurers, surveyors, engineers, superintendents, artists and all other officers and persons necessary to carry into effect the objects of this act; they shall keep a journal of their proceedings, in which shall be entered all the by-laws, rules, and regulations, and all orders for the payment of such allowances as may be made to their officers, and all others in their employ, which journal shall from time to time be read by the board, and if found to be correct signed by the president; they may sit on their own adjournments, or on the call of the president; when the president is absent they may appoint a president *pro tempore*; they shall fill all vacancies that may happen in their own body.

SEC. 5. The corporation shall cause books to be opened for subscription to the capital stock at such time and at such place or places as they may choose, due notice of which shall be given in at least one newspaper published in the town or city, where such books are proposed to be opened.

SEC. 6. It shall be lawful for any persons of lawful age, for the agent of any corporate body, for the agent of the state, or of the United States, on behalf of the same, to subscribe for any amount of capital stock; and the books shall be kept open for any such

space of time, and at such place or places, as the corporation shall choose, and may be re-opened at any time; and they may, by an agent, offer for sale in any other state, any amount of stock, upon such terms and conditions as may be thought advisable; they shall have power, on the credit of the corporation, to borrow money on such terms as may be agreed upon by the parties; the corporation may require such sum of money to be paid at the time of subscribing not exceeding five dollars on each [share] as they may think proper; but such requisition shall be made known by being inserted in the notice for opening the books, and any future payments of stock shall be under the control of the corporation.

SEC. 7. As soon as seventy-five thousand dollars are subscribed for, and five dollars are paid on each share, it shall be the duty of the corporation to give three weeks' notice thereof in one or more newspapers, and in such notice to appoint a time and place for the stockholders to meet and elect nine directors, who shall be stockholders; and said election shall be conducted by two judges appointed by the stockholders present, and the persons having a plurality of votes given and counted in public, shall be declared duly elected. No share shall confer a right to vote at any election, unless the same shall have been held one month previous to the election. In all elections one share shall entitle the holder to one vote, for as many shares as he may have; and votes may be given by the person owning the same, or by one of any partners, or by the husband, father, mother, administrator, or executor, trustee or guardian, or by the authorized agent of any corporation, state, or of the United States, or any person may vote by written proxy.

SEC. 8. It shall be the duty of the directors elected as above, and those elected at all subsequent elections, to meet as soon thereafter as they conveniently can, and elect one of their own body president. The president and directors thus elected shall continue in office until the next annual election, and until their successors are elected and qualified.

SEC. 9. All the elections after the first shall be held on the first Monday in September annually, under the direction of three stockholders, not directors at the time, to be appointed by the board at a previous meeting, and notice of said election shall be given for one month previous thereto, in at least one newspaper: *Provided*, That if from any cause whatever there should be no election held on the day appointed by this act, or by the directors for the first election, it shall be lawful to hold the election on any other day.

SEC. 10. Certificates of stock shall be given to the stockholders, which shall be evidence of the stock held; they shall be signed by the president and countersigned by the clerk. The stock shall be transferred on the books of the corporation personally or by agent, or attorney, or by the administrator, executor, trustee, or guardian; but such stock shall be held at all times by the corporation for any dues from the holder thereof to the corporation, or for any sums that may thereafter become due on contract made prior to such transfer.

SEC. 11. The corporation shall have power to call for such portions of the stock subscribed not exceeding twenty-five dollars, on each share in any one year, as they may think proper to be paid, at such time and place as they may designate, by giving sixty days' notice in some newspaper of general circulation, where said stock is made payable, or by written notice to the stockholders, in which shall be specified the amount demanded on each share, and the time and place of payment; if any stockholder shall neglect or refuse to pay any such requisition, within ten days' after the time named for such payment, the corporation may bring suit for the amount due and called for, against such delinquent, in any court of competent jurisdiction, and recover the amount due with ten per centum damages for such detention; and if the amount cannot be made on execution, or if such delinquent is out of the state, then the corporation may, by an order on their books, declare such stock forfeited to the corporation, with whatsoever amount may have been paid thereon, and no such delinquent, after the forfeiture of the stock, shall have any right to vote for directors, or receive or recover any dividend, on his, her or their stock, until the corporation is fully satisfied.

SEC. 12. The corporation shall by their agents have full power, from time to time, to examine, to survey, locate, and construct a rail road of single or double track, commencing at Rushville, in Rush county, and running on the best ground for the interest of the company and public convenience, to Lawrenceburgh in the county of Dearborn.

SEC. 13. And for the purpose of making such location and examination it shall be lawful for the corporation, by their agents and persons in their employ, to enter upon any lands to make surveys and estimates and for the purpose of searching for stone, wood, gravel, and other material necessary for the construction of said road; but no stone, gravel, wood, or other material necessary for the construction of said road shall be taken away from any land without the consent of the owner thereof, until the rate of compensation shall be ascertained and paid.

SEC. 14. It shall be lawful for the corporation, either before or after the location of any section of the road, to obtain from the person or persons through whose lands the same may pass, a relinquishment of so much of the land as may be necessary for the construction or location of said road, and also the stone, gravel or other materials; and it shall be lawful for said corporation to receive by donations, gifts, grants or bequests, land, money, labor, property, stone, gravel or other materials for the benefit of said corporation; and all such contracts, relinquishments, donations, gifts, grants and bequests, made and entered into in writing by any person or persons capable in law to contract, made in consideration of said location for the benefit of said corporation, shall be binding and obligatory: and the corporation may have their action at law, in any court of competent jurisdiction, to compel the same: *Provided*, that all such contracts

relinquishments, donations, gifts, grants and bequests shall be in writing and signed by the party making the same.

SEC. 15. That in all cases where any person through whose land the road may run shall refuse to relinquish the same, or where a contract between the parties cannot be made, it shall be lawful for the corporation to give notice to some justice of the peace in the county where the difficulty may occur, that such facts do exist; and such justice of the peace shall, thereupon, summon such owner to appear before him on a particular day, within ten days thereafter, and shall appoint twelve disinterested men of the county, who shall, after taking an oath faithfully and impartially to assess the damages, if any, view the land and materials, and after having taken into consideration the advantages as well as the disadvantages the road may be to the same, and shall report thereon whether such person is entitled to damages or not, and if so how much, and shall file such return with such justice, whereupon said justice shall enter judgment thereon, unless for good cause then shown; and in case either party should show sufficient cause why judgment should not be entered, the justice may grant a review of the premises either with or without costs, *Provided*, That either party may at any stage of the proceedings appeal to the circuit court of the proper county as in other cases, and such court shall appoint reviewers as above directed, who may report at that or succeeding terms, in the discretion of the court, and the judgment of the circuit court shall be final.

SEC. 16. And in all cases where the owner or owners of such land or materials shall be minors, insane persons, or reside out of the county where such lands may be, such justice shall cause three notices of the application made, and of the day fixed for the appointment of viewers, to be posted up in three of the most public places in the county; and if no person shall attend on the day named in such notice, said justice shall appoint some discreet person of the county guardian of such owner or owners, if they be minors or insane persons, and shall adjourn said hearing until that day two weeks; at which time he shall proceed to render judgment on the report of said viewers, the same as if said owner or owners had been present; and on judgment being rendered in any case for damage, and the corporation complying therewith, by the payment of costs and damages awarded against them, the corporation shall be seized of the land or materials. Costs shall be allowed or awarded against either party at the discretion of the justice or court.

SEC. 17. That if it should be found necessary and advantageous to the location and construction of said road, the corporation shall have the right to lay the same along or upon any state or county road: *Provided, however*, That before such location shall be made, the corporation shall make application to the county commissioners of the proper county for such right; and the said county commissioners are hereby vested with power to grant the same by an order entered on their records.

SEC. 18. That when said corporation shall have procured a right of way as hereinbefore provided, they shall be seized in fee simple of the right to said land, and shall have the sole use and occupation of the same; and no person, body corporate or politic, shall in any way interfere therewith, molest, disturb or injure any of the rights and privileges hereby granted, or that would be calculated to detract from or affect the profits of said corporation.

SEC. 19. The corporation shall commence the construction of said road, any time within five years after the opening of the books, and from time to time construct so much thereof as may be within their ability and to the interest of the company.

SEC. 20. It shall be the duty of said company, whenever any state or county road now established shall cross or may hereafter cross said rail road, to make and keep in repair good and sufficient causeways, so that the free use of such state and county road shall not be obstructed; and in all cases where any person shall own land on both sides of said road, and there shall not be any causeway for a public road leading from one tract to the other, the owner of such lands shall have the right, free of charge, to cross the same and to make such causeways as may be necessary for the convenience of said owner; *Provided*, That said owner of land shall not injure or obstruct said rail road.

SEC. 21. That it shall be lawful for said company to place or prescribe the kind of carriages that may be used on said road, whether propelled by steam or other power, for the transportation of passengers, for all kinds of products, lumber, or goods, wares, or merchandize, or any other kind of property; and, for this purpose, the corporation may construct said road with such turns, gates, bridges, aqueducts, culverts, toll and ware-houses as may be considered necessary for the interests of the company and convenience of the public. And the company may charge tolls and freight on such part of said road as may be in a sufficient state for travel, although the whole be not finished; and they may charge for travel and transportation on the same, when it is graded and bridged, although the rails may not be laid so as to admit carriages thereon. And said company may commence the construction of said road at such point as may best suit their interests.

SEC. 22. The corporation may charge and receive tolls and freights for the transportation of persons and commodities and carriages on said road, or any part thereof, as shall be for the interest of the company, and to charge lower or raise at pleasure.

SEC. 23. Semi-annual dividends of so much of the profits as the company may deem expedient shall be made on the first Mondays in January and July, unless the directors fix on a different day, and shall be paid to the stockholders within fifteen days thereafter; and no dividend shall be made to a greater amount than the nett profits, after deducting all expenses; and the directors shall retain such portion of the profits, as a contingent fund, to meet subsequent expenses, as they shall deem proper.

SEC. 24. That if any person or persons shall knowingly and wilfully injure or obstruct said road, or any part thereof, or shall break, destroy, or deface any work, edifice, device, toll, or ware-house belonging thereto, such person or persons so offending shall pay to the corporation five times the amount of damage actually done, with costs of suits, to be recovered by the company before any court having competent jurisdiction.

SEC. 25. It shall be lawful for the county commissioners for the county through which the road passes, for and on behalf of such county, to authorize, by an order, as much of the stock to be taken as they may think proper.

SEC. 26. It shall be the duty of the corporation to cause a full statement of the affairs of the company to be made and exhibited to the stockholders at any annual election, or other general meeting of the stockholders.

SEC. 27. Any number of the stockholders owning one-third of the stock, may call a general meeting of the stockholders by giving four weeks' notice thereof, in which specifying the objects of the call, and a majority of the stockholders being represented, they may make such order relative to the concerns of the company as a majority may determine.

SEC. 28. The corporation may, by contract, admit the intersection with said road with any other railroad, turnpike, or any other road or collateral road.

SEC. 29. The state, in time of war, shall have the right to transport troops, munitions of war, and provisions, free of toll on said road.

SEC. 30. Should the capital herein granted not be sufficient to accomplish the intended work, the corporation may increase the same; and the stockholders may, at any general meeting, reduce the number of directors to any number not less than five.

SEC. 31. That if said road after its completion shall be suffered to go into decay, or be impassable for one year, unless when the same is repairing, this charter shall be taken and considered as forfeited.

SEC. 32. The said company shall in no case, directly or indirectly, issue any scrip, or engage in any kind of trade, or deal in merchandize, other than such as may be necessary to carry into effect the objects contemplated by this act; nor shall said company engage in the business of banking.

SEC. 33. It shall be lawful for said company to take and hold by gift, grant, bequest, or purchase, such real estate as shall be sufficient for the immediate transaction of its business, and for the purpose of building thereon depots, machine shops, and such other buildings as shall be necessary for the transaction of the business of said company.

SEC. 34. The directors who shall contract debts over and above the amount of good and solvent stock subscribed, shall be individually liable for the payment of such excess.

SEC. 35. The Legislature reserves to itself the right at any time to alter or amend this charter, two-thirds of both branches of the Legislature concurring therein.

SEC. 36. This act shall take effect and be in force from and after its passage, and shall be deemed and taken to be a public act.

[The foregoing was presented to me on the 4th day of February 1848, for approval, but official duties having prevented the desired research, it has not been approved nor returned to the Senate with my objections down to this 16th day of February, 1848, and has, therefore, become a law.]

JAMES WHITCOMB.

## CHAPTER CCCXLV.

An Act to incorporate the Crawfordsville and Indianapolis Railroad Company.

[APPROVED FEBRUARY 16, 1848.]

SECTION. 1. *Be it enacted by the General Assembly of the State of Indiana*, That James W. Lynn, Henry Crawford, John M. Fisher, William Binford, John Wilson, Henry T. Snook, Townsend Griffith, John Burk, Jacob Crisman, Abijah O'Neal, Joel Lee, Edmund Nutt, Swan Brookshire, of the county of Montgomery, and their successors in office, be, and they are hereby declared a body politic and corporate, and by the name and style of "the President and Directors of the Crawfordsville and Indianapolis Railroad Company," shall be capable in law and equity, to sue and be sued, plead and be impleaded, answer and be answered unto, in any and all courts whatever; to make and use a common seal, and the same to alter and change at pleasure; and shall be and are hereby authorized and empowered to make contracts, and make and enforce the necessary by-laws, rules, and regulations, to enable them, to carry into effect the provisions of this act, and the objects contemplated by the same, not inconsistent with the laws and constitution of this state.

SEC. 2. The capital stock of said corporation shall be three hundred thousand dollars, divided into shares of fifty dollars each, with power to increase the capital stock if necessary to accomplish the objects herein contemplated.

SEC. 3. The directors in this act named, or a majority of them, shall meet at such time and place as they may agree on, and organize said corporation, by electing one of their body president, and

after such organization, any five of them shall be a quorum to do business.

SEC. 4. The said corporation shall have power to appoint agents, clerks, treasurers, surveyors, engineers, superintendents, artists, and all the persons and officers necessary to carry into effect this act. They shall keep a journal of their proceedings, in which shall be entered all by-laws and regulations, and all orders for the payment of such allowances, as may be made to their officers and all others in their employment, which journal and proceedings shall, from time to time, be signed by the president, (they may set on their own adjournments or meet on the call of the president). When the president is absent from a meeting, they shall appoint one of their number president *pro tempore*, and they shall fill all vacancies that may happen in their own body.

SEC. 5. The corporation shall cause books to be opened at such time and places as they may choose, due notice of which shall be given in some public newspaper printed and published in the vicinity of said railroad, in each of which books the following entry shall be made: "We, the undersigned, promise to pay the sum of fifty dollars for each share of stock set opposite to our respective names in such manner and proportions, and at such times as the president and directors of the Crawfordsville and Indianapolis Railroad Company may direct the same to be paid, without the benefit of appraisement or valuation laws. Witness our hands this — day of —, 18—."

SEC. 6. It shall be lawful for all persons of lawful age, or for any corporate body in the United States, by their constituted officers or agents, to subscribe for any amount of the capital stock of said railroad company; and the said corporation may, by their officers or authorized agent or agents, offer for sale in any of the states of the United States any amount of their stock upon such terms and conditions as may be thought advisable; and said corporation shall have power to borrow money (on their own credit) upon such terms as may be agreed upon by the parties; the said corporation may require such sum of money to be paid at the time of subscribing for stock, (not exceeding five dollars on the share,) as they may think proper; but the amount required to be paid on each share subscribed for, shall be made known in the notice for opening the books, and any future installments or payments on stock shall be under the control of and regulated by the said company, subject to the restrictions hereinafter mentioned.

SEC. 7. As soon as two hundred shares of said stock are subscribed for, and the amount required in said notice to be paid on each share at the time of subscription shall have been paid in, it shall be the duty of said corporation to give three weeks' notice thereof in some public newspaper or newspapers near to said railroad, and in said notice appoint a time and place for the stockholders to meet and elect thirteen directors, who shall be stockholders and citizens of this state, and which election shall be by ballot, and conducted under the superintendence of an inspector and two judges,

selected by a majority of the stockholders present at such election; and the thirteen persons receiving the highest number of votes shall be declared duly elected. In all such elections each share shall entitle the owner thereof to one vote; and every person or persons, being the owner or owners of more than one share of said stock, shall be entitled to a vote for each share; the vote or votes, in all cases, to be given by the owner or owners thereof, by him, her, or themselves, or by their agents, proxies, or legal representatives.

SEC. 8. It shall be the duty of the directors elected as above, and those elected at all subsequent elections, to elect one of their own body president. The president and directors thus elected shall continue in office until the next annual election, and until their successors are elected and qualified.

SEC. 9. All elections, after the first, shall be held on the first Wednesday in January in each year, to be conducted in all respects as specified in section seven of this act. Three weeks' notice in some public newspaper near to said road shall be given by said board of the place of holding such election; and the directors elected at any such annual election shall hold their offices for one year, and until their successors are elected and qualified. But should no election be held on said first Wednesday in January in any year, it shall be lawful to hold an election on some other day, to be appointed by said board, of which notice shall be given as above in this section specified, and to be conducted in the same manner as is provided for in section seven; and the directors thus elected shall hold their offices until the next annual election, and until their successors are elected and qualified.

SEC. 10. Certificates of stock shall be given to the stockholders, which shall be evidence of the stock held; such certificates shall be signed by the president, and countersigned by the clerk of said company. The stock shall be transferred on the books of the corporation only by the person or persons owning the same, in person or by their legally constituted agent or agents, attorney or attorneys, or by their legal representatives, trustee or guardian; and such stock shall be at all times holden by the corporation for any dues from the owner thereof to the corporation, or for any sum that may thereafter become due on any contract made with said corporation prior to such transfer.

SEC. 11. The said corporation shall have power to call for such proportions of the stock subscribed for, (not exceeding twenty per centum every six months) as they may think proper, to be paid at such time and place as they may designate, by giving sixty days notice thereof, in some newspaper near to said road, or by giving to the stockholders written notice, in which notice shall be specified the amount called for and demanded on each share, and the time and place of payment; and if any stockholder shall fail, neglect, or refuse to pay the same so called for on his, her, or their stock, within ten days after the time named for such payment in said notice, the corporation may bring suit against such delinquent,

for the amount due and called for, in any court having jurisdiction, and recover the amount so called for and unpaid, together with interest from the time of such failure, neglect or refusal; and the evidence to establish such claim of the corporation, shall be the order in the journal of the proceedings of said corporation, calling for the installment on the stock, and proof that the notice above specified has been given, and if the amount so recovered against any such delinquent cannot be made on execution, or if such delinquent is out of the state, then the corporation may by an order on their said journal of proceedings declare such stock, and all that may before have been paid thereon, forfeited to said corporation; and no delinquent after the failure, neglect, or refusal aforesaid, and before the stock shall be declared forfeited to the corporation, shall have the right to vote for directors, or receive and dividend on his, her, or their stock, until the corporation is fully paid and satisfied; and should any such delinquent or delinquents be a director or directors in such corporation, his or their offices of director or directors may be by the balance of said board declared vacated, and they may proceed to fill from the qualified stockholders in said corporation, such vacancy or vacancies in such board of directors; and the person or persons so appointed, shall hold their office or offices until the next annual election, and until their successors are elected and qualified. The corporation shall require of all officers and others in their employ, bonds with such security as they may think proper for the faithful performance of their respective duties or undertakings.

SEC. 12. The said corporation shall have power by themselves or agents, to examine, survey, and locate a route and make and construct on such route a railroad from some convenient point in the town of Crawfordsville, Montgomery county, to some convenient point in or near the city of Indianapolis, in Marion county, on the most suitable ground, and such as will be most conducive to the public good, and the interest of said corporation; and to build and construct a railroad on such route, and to fit the grade and superstructure of such railroad, for such motive power as may be determined on by said corporation: *Provided, however,* That said railroad route shall not be located on any state or county road, without the said corporation first having obtained permission so to do, from the board of county commissioners of a county in which a state or county road is sought to be used, and which permission when once given and entered on the order book of said commissioners, shall be irrevocable during the existence of this corporation: *Provided,* Said corporation, before asking for the use of such state or county road, shall give three weeks' notice in some newspaper printed in the county where such application is to be made.

SEC. 13. And for the purpose of making such examination and location of said railroad route, it shall be lawful for said corporation and their agents and persons in their employ, to enter upon any land, to make surveys and estimates, and for the purposes of

searching for stone, wood, or other materials necessary for the construction of said railroad ; but no stone, or wood, or other materials, shall be taken away from any land without the consent of the owner thereof, or until the amount of compensation therefor has been ascertained and paid for.

SEC. 14. It shall be lawful for said corporation either before or after the location of said railroad, to obtain from any person or persons through whose land said railroad may run, a relinquishment of so much land as may be necessary for the construction of said road, also the stones, timber, and other materials, (that may be obtained on said route, and may contract for any stone, timber, and other materials,) on any lands near to said road, for the benefit of said corporation, and said corporation may receive by gift, grant, donation, or bequest made and entered into in writing by any person or persons capable in law of contracting, made in consideration of such location of said road ; and for the benefit of said corporation, lands, money, labor, stone, timber, or any other kind of property, and all such gifts, grants, donations and bequests, shall be binding and obligatory ; and the said corporation shall have their action at law, or in equity, to compel a compliance therewith : *Provided*, That no such contracts, relinquishments, gifts, grants, donations or bequests, shall be binding and obligatory, unless the same be in writing and signed by the party making the same, or be accompanied by actual delivery.

SEC. 15. That in all cases where any person through whose land the same may run, shall refuse to relinquish the same, or where a contract between the parties cannot be made, it shall be lawful for the corporation to give notice to some justice of the peace in the county where the difficulties may occur, that such facts do exist, and such justice of the peace shall thereupon summon the owner of such land to appear before him on a particular day, within ten days thereafter, and shall appoint twelve disinterested persons of the neighborhood, who shall after taking an oath faithfully and impartially to assess the damages, if any, view the land, and materials, and after having taken into consideration the advantages, as well as disadvantages the road may be to the same, and shall report thereon whether such person is entitled to damages or not, and if so, how much, and shall file such return with such justice, whereupon said justice shall enter judgment thereon, unless for good cause there shown ; and in case either party should show sufficient cause why judgment should not be entered, the justice may grant a review of the premises either with or without costs : *Provided*, Either party may, at any stage of the proceedings, appeal to the circuit court of the proper county, as in other cases, and such court shall appoint reviewers as above directed, who may report at that or the next term, in the discretion of the court, and the judgment of the circuit court shall be final.

SEC. 16. And in all cases where the owner or owners of such and or materials shall be minors, insane persons, or reside out of

the county where such lands may be, such justice shall cause three notices of the application made, and of the day fixed for the appointment of reviewers, to be posted in three of the most public places in the county ; and if no person shall attend on the day named in said notice, said justice shall adjourn the same until that day two weeks, at which time he shall proceed as if such person or persons had been duly notified to attend, and on such judgment being rendered, and the corporation complying therewith by the payment of costs or damages awarded against them, the corporation shall be seized of the land or materials ; costs shall be allowed or awarded against either party, at the discretion of the justice.

SEC. 17. That whenever said corporation shall have procured the right of way as herein provided, they shall be seized in fee simple of the right to said land, and shall have the sole use and occupation of the same for the purposes aforesaid, and no person, body politic or corporate shall in any way interfere with, molest, disturb, or injure said corporation in any of the rights and privileges granted.

SEC. 18. That said corporation shall commence the construction of said road within two years from and after the passage of this act, and shall finish the same within ten years thereafter.

SEC. 19. That the said corporation, for the conveyance and transportation of passengers or any kind of freight on said road, or any portion of it, may charge such sum of money as shall best comport with the interest of said company, and as shall not be considered as oppressive.

SEC. 20. Any person who shall wilfully, mischievously, or maliciously destroy or injure any of the cars, machinery, furniture, apparatus, or other property or thing belonging or appertaining to said railroad, or shall wilfully, mischievously, or maliciously place any obstruction on such railroad, shall, on conviction thereof by presentment or indictment, be fined in any sum not exceeding five hundred dollars, and shall, moreover, be liable in an action on the case to any person or persons, bodies politic or corporate, for any and all injuries to persons or property occasioned thereby.

SEC. 21. The said corporation shall cause to be kept a fair account of the costs of the making and repairing said road, and every section thereof, with all incidental expenses ; and shall also keep a fair account of any and all moneys received from the transportation of freight, mails, or other property or passengers on said road ; and the books of said corporation shall always be kept open for the inspection of stockholders and directors of said corporation.

SEC. 22. It shall be lawful for the board of county commissioners of any county interested in said road to subscribe for and take stock on behalf of, and for the use of such county, such an amount of stock as they may think proper, the taking of which stock shall be by an order of such board of commissioners entered on their order book.

SEC. 23. This act is hereby declared a public act, and shall receive a liberal construction.

SEC. 24. This act to be in force from and after its passage.

## CHAPTER CCCXLVI.

An Act to incorporate the Greenbush Cemetery Association of Lafayette, in Tippecanoe county.

[APPROVED FEBRUARY 3, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That David Ross, Richard H. Eldridge, Thomas P. Emerson, Othneil L. Clark, Joseph S. Hanna, Mathias Scudder, Lawrence B. Stockton, Zebulen Baird, Godlove S. Orth, Luther Jewett, George Nichol, Jesse Andrew, Nathan H. Stockwell, William F. Reynolds, Cyrus Ball, Charles F. Wilstack, Rudolph S. Ford, James F. Clark, Thomas S. Cox, John Purdue, Joel B. McFarland, Robert Heath, and William P. Heath be, and they are hereby, created a body politic and corporate by the name and style of the "Greenbush Cemetery Association of Lafayette," and by that name shall be able to contract and be contracted with, of suing and being sued, pleading and being impleaded, of answering and being answered, in all courts and places, and in all matters whatsoever, with power to purchase, receive, and hold, and to convey any real and personal estate which may be appropriate to the nature of their association.

SEC. 2. The officers of said association shall consist of three trustees, who shall be members of said association. The first election of trustees shall be held at the office of the sheriff of said county of Tippecanoe, in the town of Lafayette, on Saturday, the twelfth day of February, 1848, between the hours of 12 o'clock and 5 o'clock, P. M., on said day; that the persons elected trustees at said election shall meet within five days thereafter, and organize by electing one of their number president, and appointing some suitable person secretary; that one of said trustees shall serve for the term of three years, one for the term of two years, and one for the term of one year; and shall, immediately after their organization, determine by lot the term for which each of said trustees shall respectively serve, and that annually thereafter; on the second Saturday in February, the members of said association shall elect one trustee for said association, who shall serve for the term of three years, and until his successor shall be elected and qualified.

SEC. 3. Any two of said trustees shall constitute a quorum to transact business, and may fill, by appointment, any vacancy that

may occur in their body; *Provided*, That the person thus appointed shall be a member of said association, and shall serve during the unexpired term of his immediate predecessor.

SEC. 4. In all elections for trustees by the persons named in the first section of this act, such persons shall be entitled to one vote for each share of twenty-five dollars of stock in said association; and when two or more persons jointly own stock to the amount of twenty-five dollars, such persons shall jointly be entitled to one vote; *Provided*, That all elections for trustees shall be by ballot.

SEC. 5. Said trustees shall have power at any of their regular meetings—

1st. To adopt such by-laws (and the same to alter at pleasure) as they may deem best for the government, management, and regulation of said association, not inconsistent with the laws of this state or with this act of incorporation.

2d. To elect a secretary and treasurer, and such other officers as may be necessary, and to prescribe their duties and terms of office, fix their salaries, and fill all vacancies.

3d. To devise and adopt a corporate seal, and the same to alter at pleasure.

4th. To lay off into suitable lots for burial purposes any ground that may be acquired by said association for such purpose, or so much thereof as they may deem expedient, a plat of which shall be registered in the register hereinafter provided, and also recorded in the recorder's office of Tippecanoe county.

5th. To number the lots so laid off, and to assess the value of each lot prior to any sale of lots in said cemetery, which value shall not thereafter be changed.

6th. To fix the terms and conditions of such sale, and to execute to the purchaser of any such lot a deed therefor, with such restrictions and conditions as they may adopt, which deed shall be in the corporate name aforesaid, have the seal of said association affixed, and be signed by at least two of said trustees; *Provided, however*, No deed shall be executed until full payment of the purchase money has been made to said trustees or their treasurer.

7th. To establish rules and regulations in reference to all grounds belonging to said cemetery, to protect the trees, shrubbery, flowers, walks, and other rural ornaments on the same, and all tombs, cenotaphs, and monuments therein, and to provide suitable enclosures around the said grounds.

8th. For the purpose of constructing a road to lead to and from said cemetery, they shall have power to sell a portion of any real estate owned by said association that has not been laid off into lots, or exchange the same for other real estate, or they may purchase real estate necessary for such road, and shall have power to execute a deed of conveyance for any portion of said real estate they may thus sell or exchange; *Provided*, That they shall in no event have power to contract any debts for or on account of said association to an amount greater than the amount of funds in the

hands of the treasurer at the time such debt is contracted; *And provided, further*, That the debt thus contracted shall be immediately paid out of such fund.

9th. To do and perform all and singular the several duties of said association necessary to carry into effect the object of this incorporation.

10th. To appoint a sexton, to erect all necessary houses, and to establish rules and regulations for interments in said cemetery, and to cause a record of interments to be kept, in which shall be registered the name, age, occupation, and nativity of each person interred, with the date of his or her interment, and such other matters as may be deemed proper to be recorded.

SEC. 6. All real estate held by said association for burial purposes, whether laid off into lots or not, shall be deemed a perpetual dedication of the same for the purposes aforesaid, and shall for ever be held by said association in trust for such purposes and none other; and that no part thereof shall ever be used or sold by said association for any purposes whatsoever, except as in this act excepted. And all real estate so dedicated for the purposes aforesaid, with the ground occupied by the sexton's house, and the garden thereto attached, and any road owned by the association, connecting their said ground with any public street or highway, shall for ever be exempt from taxation.

SEC. 7. Said association shall have authority to sell, grant, and convey to any person or persons the sole and exclusive right of burial on any lot or lots in said cemetery, and of erecting tombs, cenotaphs, and monuments, shrubs, trees, and rural ornaments therein, upon such terms and conditions, and subject to such regulations as said association may prescribe; and every right so granted and conveyed shall be held for the purposes aforesaid, and for none other, as real estate, by the proprietor or proprietors thereof, and shall not be subject to attachment, execution, or other process of law for any debt or liability of said association, or any of such proprietors.

SEC. 8. So soon as said ground is platted and recorded, the persons named in the first section of this act, who own shares to the amount of twenty-five dollars, shall each select two of said lots, and those owning only one-half of such share of twenty-five dollars, shall each select one of said lots of ground, which lots so selected shall be conveyed to the proper person, and be held for the same purpose and to the same extent as though the same had been purchased from the said association.

SEC. 9. Said trustees shall keep a fair record of all their proceedings, and a correct account of all the moneys by them received and expended from time to time, which record shall at all times be open to the inspection of any member of said association.

SEC. 10. Said trustees shall keep a register of all lots by them sold, together with those selected by the persons named in the first section of this act, with the date of sale and selection, and the name of the person to, and by whom such sale and selection was made, and no subsequent sale or transfer of any lot or part thereof by any

proprietor, shall vest in the purchaser or assignee any title, or confer upon him any rights or privileges under this act, until such transfer, assignment, or conveyance shall have been made known to said trustees, and an entry or minute thereof made by them on said register.

SEC. 11. The proceeds arising from the sale of the lots in said cemetery shall be applied under the direction of said trustees as follows, viz:

1st. To enclosing said ground and paying the expenses of platting the same.

2d. To providing suitable roads and walks to and from and through said cemetery.

3d. To pay incidental expenses attending the management of the affairs of said association.

4th. To reimburse to the persons named in the first section of this act, or their heirs or assigns, the amount by them advanced for the purchase of any ground contemplated in this act, with interest thereon from the date of its advancement.

5th. All moneys thereafter acquired by said association for the sale of lots, in said cemetery, shall be held in trust and used exclusively for transacting the ordinary business of said association for the protection of said cemetery, and for embellishing, adorning, and ornamenting the same, providing sufficient and permanent enclosures, roads, and walks, and for planting shrubs, trees, and other rural ornaments; and shall, upon no pretext whatever, be diverted from the objects contemplated in this section.

SEC. 12. So soon as the persons named in the first section of this act, their heirs or assigns, shall have been fully reimbursed for the amount of money, principal and interest, by them respectively advanced as contemplated in the preceding section of this act, the trustees for the time being shall give public notice of that fact by publication in one or more of the newspapers then printed in said county of Tippecanoe.

SEC. 13. That, from and after the publication of the notice in the preceding section specified, each and every person then owning or that may thereafter own, any lot or lots in said cemetery, shall become a member of said association, and every such person, over the age of twenty-one years, and the guardians of such as are under the age of twenty-one years, shall have a right to vote, at any subsequent election for trustee of said association, and shall have and possess the same power and privileges by this act conferred in the persons named in the first section of this act, and be subject to all the prohibitions and restrictions in this act contained.

SEC. 14. That any person who shall wilfully destroy, mutilate, deface, injure, or remove any tomb, monument, grave-stone, or other structure erected in said cemetery, or any fence, railing, or other work, for the protection or ornament of any tomb, monument, grave stone, or other structure aforesaid, or of any burial lot in said cemetery, or shall wilfully destroy, cut, break, injure, or remove any

shrub, tree, or plant within the limits of said cemetery, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in the circuit court of said county, upon presentment or indictment, be fined in any sum not less than twenty dollars, to which may be added imprisonment in the county jail, not less than ten nor more than ninety days; and such offender shall also be liable to an action of trespass, to be brought against him in any court of competent jurisdiction, by said association, to pay all and such damages as shall have been occasioned by his unlawful act or acts; which money, when received, shall be by said trustees applied to the reparation and restoration of the property destroyed or injured, as aforesaid. And in such action any member of said association shall be a competent witness.

SEC. 15. This act shall be taken in all courts as a public act—shall receive a liberal construction, and shall be in force from and after its passage.

## CHAPTER CCCXLNII.

An Act to incorporate the Madison and Brownstown Turnpike Company.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That Michael G. Bright, William H. Branham, Milton Stapp, and John Riley, of the county of Jefferson; Dennis Willey, James S. Smith, and Jesse Johnson, of the county of Jennings; Anderson Franklin, James Wheeler, and Asa Crane, of the county of Jackson, and their successors in office, duly elected, as hereinafter directed, are hereby constituted a body politic and corporate, by the name and style of "The Madison and Brownstown Turnpike Company," and shall be able and capable in law and equity to sue and be sued, defend and be defended, answer and be answered unto in any and all courts whatever; to make and use a common seal, and the same to alter or change at pleasure; and shall be able in law to make contracts and enforce the same; and to make and enforce the necessary by-laws, regulations, and rules to enable them to carry into effect the provisions of this act and the objects contemplated in the same, not inconsistent with the laws and constitution of the state.

SEC. 2. The capital stock of said corporation shall be one hundred thousand dollars, divided into shares of twenty-five dollars each, with power to increase the capital stock, if necessary to accomplish the objects herein contemplated.

SEC. 3. The directors herein named, or a majority of them, shall

meet at such time and place as they may agree on, and organize said corporation by electing one of their body president, and after such organization, any five of said body shall constitute a quorum to do business.

SEC. 4. The corporation shall have power to appoint agents, clerks, treasurers, surveyors, engineers, superintendents, artists, and all other officers necessary to carry this act into effect. They shall keep a journal of their proceedings, in which shall be entered all by-laws and regulations, and all orders for the payment of such allowances as may be made to their officers and all others in their employment; which journals and proceedings shall, from time to time, be signed by the president. They may sit on their own adjournments, or on the call of the president; and when the president is absent, they may appoint a president, *pro tempore*. They shall fill all vacancies that may happen in their own body.

SEC. 5. The corporation shall cause books to be opened for subscription at such time and places as they may choose—due notice of which shall be given in the Madison newspapers and others of general circulation in the counties through which said road is proposed to be located; in each of which books the following entries shall be made:

"We the undersigned promise to pay twenty-five dollars for each share of stock set opposite our names, in such manner and proportions, and at such times, as the president and directors of the Madison and Brownstown Turnpike company, may direct. Witness our hands this — day of —, 184 ."

SEC. 6. It shall be lawful for all persons of lawful age, and for the agent of any corporate body to subscribe for any amount of the capital stock; and the said corporation may, by an agent, offer for sale in this or any other state, any amount of stock, and upon such terms and conditions, as may be thought advisable, and they shall have power upon their credit to borrow money upon such terms as may be agreed upon by the parties. The corporation may require such sum of money to be paid at the time of subscribing, not exceeding five dollars on each share, as they may think proper, but the amount required shall be made known on the notice for opening the books, and any future payments on the stock shall be under the control of the corporation.

SEC. 7. As soon as seven hundred shares of stock are subscribed and four dollars paid on each share, it shall be the duty of the corporation to give three weeks' notice thereof in the Madison newspapers, and in such notice appoint a time and place for the stockholders to meet and elect nine directors, who shall be stockholders and citizens of this state; which election shall be by ballot, and conducted under the superintendence of one inspector and two judges, appointed by the stockholders present, and the persons having the highest number of votes shall be declared duly elected, and in all elections each share shall entitle the holder to one vote, to be given by the person owning the same, or by one of any partners, or by the

husband, father, mother, executor or administrator, trustee or guardian, or by the agent of any corporation, or any person having a right to vote, may vote by proxy.

SEC. 8. It shall be the duty of the directors elected as above, and those elected at subsequent elections, to elect one of their body to be president. The president and directors thus elected shall continue in office until the next annual election, and until their successors are elected and qualified.

SEC. 9. All elections after the first shall be holden on the first Monday of January annually, under the directions of the stockholders present, of which election notice shall be given; but should no election be held on the day appointed by this act, or by the directors of the first election, it shall be lawful to hold the election on some other day.

SEC. 10. Certificates of stock shall be given to the stockholders, which shall be evidence of the stock held by them; they shall be signed by the president and countersigned by the clerk. The stock shall be transferred on the books of the corporation only, or by the agent or attorney, or by the executor, administrator, trustee or guardian; but such stock shall be at all times holden by the corporation for any dues from the holder thereof to the corporation, or for any sums that may thereafter become due on a contract made prior to such transfer.

SEC. 11. The corporation shall have power to call every six months for such portions of the stock subscribed not exceeding twenty-five per centum, as they may think proper to be paid at such time and place as they may designate, by giving sixty days' notice in some paper of general circulation in the counties through which said road may be located or by giving written notice to the stockholders, in which shall be specified the amount demanded on each share, and the time and place of payment; and if any stockholder shall neglect or refuse to pay such requisition within ten days after the time named for such payment, the corporation may bring suit against such delinquent for the amount due and called for, in any court of competent jurisdiction, and recover the amount with two per centum interest thereon per month, and if the amount cannot be made on execution, or if such delinquent be out of the state, then the corporation may, by an order on their books, declare such stock forfeited to the corporation, with whatever amount may have been paid thereon, and no such delinquent before the forfeiture of his, her, or their stock, shall have the right to vote for directors or receive any dividend on such stock until the corporation be fully satisfied. The corporation shall require of all officers, and others in their employ, bonds with such security as they may think proper for the faithful performance of their respective duties.

SEC. 12. The corporation shall have power by themselves or agents to examine, survey, and locate a turnpike road from the city of Madison, by way of North Madison, Wirt, and Paris, to Brownstown, in the county of Jackson, and shall have power to lay the

same on the state road connecting said points, or on any county road, or may diverge from the same, where more suitable ground can be had for the construction or shortening the distance of said road.

SEC. 13. And for the purpose of making such examination and location, it shall be lawful for the corporation, by their agents or persons in their employ, to enter upon any lands, to make surveys and estimates, and for the purpose of searching for stone, gravel, wood, or other materials necessary for the construction of said road, but no materials shall be taken away from any land without consent of the owner thereof, until the rate of compensation shall be ascertained.

SEC. 14. It shall be lawful for the corporation either before or after the location of said road to obtain from any person or persons through whose land the same may pass, a relinquishment of so much of said land as may be necessary for the construction of said road, as also of the stone, gravel, timber, or other materials, that may be obtained, on said routes, and may contract for stone, gravel, timber, or other materials that may be obtained from any lands near thereto; to receive by donations gifts, grants, or bequests, lands, money, labor, property, stone, gravel, timber, or other materials for the benefit of such corporation; and all such contracts, relinquishments, donations, gifts, grants, or bequests made and entered into in writing by any persons able in law to contract, made in consideration of such location, and for the benefit of the corporation, shall be binding and obligatory, and the corporation may and shall have their action at law in any court of competent jurisdiction to compel a compliance thereto: *Provided*, That all such contracts, relinquishments, donations, gifts, grants, &c., shall be made in writing by the party making the same.

SEC. 15. That in all cases where any person through whose land the road may run, shall refuse to relinquish the same, or where a contract between the parties cannot be made, it shall be lawful for the corporation to give notice to some justice of the peace in the township where such circumstance may occur, and such justice shall thereupon summon the owner of such land to appear before him on a particular day within ten days thereafter, and shall summon a jury of twelve disinterested men, or a less number if agreed to by the parties, who shall, after taking an oath faithfully and impartially to assess the damage, if any, view the land or materials, and after taking into consideration the advantages as well as disadvantages said road may be to the same, report thereon whether such person is entitled to damage or not, and if so, how much, and shall file such report with the justice, whereupon such justice shall proceed to enter judgment thereon unless for good cause shown, and in case either party shall shew sufficient cause why the judgment shall not be entered, the justice may grant a review of the premises, either with or without costs; *Provided*, Either party may at any time after the rendition of such judgment appeal to the cir-

cuit court as in other cases, and such court may confirm the judgment of such justice or appoint reviewers as above directed, who may report at that or the succeeding term in the discretion of the court and the judgment of the circuit court when rendered shall be final; *Provided*, That no person who has petitioned the legislature for this charter shall be entitled to damages for the right of way for said road.

SEC. 16. And in all cases where the owner or owners of such land or materials shall be minors, idiots, or insane persons, or shall reside out of the county where the same may be, such justice shall cause the notices of the application and of the day fixed for the appointment of reviewers, to be posted up in three of the most public places of the township, and if no person shall appear on the day named in such notice, he shall proceed as if such person or persons had been duly notified to attend, and on such judgment being rendered and the corporation complying therewith, by the payment of costs and damages that may be awarded against them, shall be seized of the lands or materials. Costs shall be awarded against either party at the discretion of the justice.

SEC. 17. That when said corporation shall have procured the right of way as herein provided, they shall have the sole use and occupancy of the same for the purposes aforesaid, and no person, body corporate or politic, shall in any way interfere, molest, injure or disturb any of the rights and privileges hereby granted.

SEC. 18. The corporation shall commence the construction of said road within three years and complete the same within ten years from the commencement; *Provided, however*, If ten miles or more of said road shall be completed within the time aforesaid, the charter shall not be forfeited as to that part of the road so completed.

SEC. 19. Said corporation shall cause said road to be opened not exceeding sixty feet wide and not less than eighteen feet in width of which shall be McAdamized, or covered with gravel or other suitable materials, well compacted together so as to secure at all times a firm, compact, and even road, rising in the middle with a gradual curve, and shall maintain and keep the same in good repair, and in no case shall the ascent in the road be greater than an elevation of five degrees.

SEC. 20. If said road after the completion thereof shall be suffered to go to decay, or be impassable for one year, unless when the same is being repaired, this charter shall be considered as forfeited.

SEC. 21. So soon as the said corporation shall have completed the said road as aforesaid, or any five continuous miles thereof, agreeably to the provisions of this act, they may then erect a gate or gates at suitable distances apart, not less than five miles, and demand and receive of persons traveling said road the tolls allowed by this act.

SEC. 22. The following shall be the rates of toll for each and every ten miles of said road, and in proportion for a greater or less

distance, viz: for every four-wheeled carriage, wagon, or other vehicle drawn by one horse or other animal, a sum not exceeding twenty cents; for every horse or other animal in addition, five cents; for every cart, chaise, or other two-wheeled carriage or vehicle drawn by one horse or other animal, not exceeding ten cents; for every sleigh or sled drawn by one horse or other animal, five cents; for every horse or other animal in addition, five cents; for every coach, chariot, or other four-wheel pleasure carriage drawn by one horse, not exceeding twenty cents; for every additional horse or other animal, five cents; for every horse and rider, not exceeding five cents; for every horse, mule, or ass six months' old and upwards, led or driven, not exceeding three cents; for every head of neat cattle, six months old or upwards, one cent; each hog or sheep, a half cent each: *Provided*, That all persons going to or returning from public worship, and militia men going to and returning from [trainings,] and all funeral processions, shall pass said road free of toll.

SEC. 23. If any person using said road shall, with intent to defraud said company, or to evade the payment of toll, pass through any private gate or bars, or along any other ground near to any turnpike gate, which shall be enclosed pursuant to this act, or shall practice any fraudulent means with intent to evade or lessen the payment of such tolls, or if any person shall take another off said road with intent to defraud said corporation, each and every person concerned in such fraudulent practice shall, for every such offence, forfeit and pay to the corporation the sum of five dollars, without any stay of execution, to be recovered, with costs of suit, in an action of debt at the suit of the corporation, before any justice of the peace of the county: *Provided*, That nothing in this act shall be so construed as to prevent persons residing on said road from passing thereon about their premises for ordinary and common business.

SEC. 24. If said corporation shall fail for ten days in succession to keep said road in repair, and complaint thereof be made to a justice of the peace of the proper county, it shall be his duty forthwith to summon three disinterested freeholders to examine the same, and he shall give notice to the toll-gatherer at the nearest gate, of the time when the said freeholders will proceed to examine that part of the road complained of, and said freeholders, after taking an oath faithfully and impartially to perform the duty hereby enjoined on them, shall proceed in the examination, and if they find said road out of repair they shall certify it to said justice, who shall immediately transmit a copy of such certificate to the nearest toll-gatherer to where such defective part of the road lies, and from the time of receiving such notice no toll shall be demanded or received for such part of the road until the same be put in complete repair under the penalty of five dollars for every such offence, to be recovered of said corporation with costs of suit, and for the use of the party aggrieved.

SEC. 25. If any person shall voluntarily or wilfully destroy, in-

jure, or obstruct any part of said road, or any gate or bars thereon otherwise than in the lawful use thereof, every such person shall, on conviction thereof before a justice of the peace of the proper county, be liable to a fine of not less than five nor more than fifty dollars for every such offence, to be recovered by an action of debt, at the suit of the State of Indiana, for the benefit of the common school fund in the county where the injury may have been committed, and all such offenders shall moreover be liable for all such damages to the corporation, or for injury accruing to travelers, in consequence of any such unlawful damage to or obstruction of said road; all damages and costs shall be collected by execution without any delay or stay of execution, before any court having jurisdiction thereof.

SEC. 26. The company shall put up a post or stone at the end of every mile, with the number of miles from either extremity, fairly cut or painted thereon, and also in a conspicuous place; near each gate shall be placed a board with the rates of toll fairly painted thereon, with such other matter in relation as may be deemed necessary.

SEC. 27. Any person wilfully destroying, defacing, or removing any guideboard, mile-post, or stone, or list of rates of toll erected on said road, shall, on conviction thereof before a justice of the peace of the proper county, forfeit and pay a sum not exceeding ten dollars, to be recovered, with costs of suit, in an action on the case at the suit and for the use of the corporation.

SEC. 28. If any toll-gatherer shall unreasonably detain any passenger after the toll has been paid or tendered, or shall demand or receive greater toll than is by this act allowed, he shall for every such offence forfeit and pay a sum not exceeding ten dollars, to be recovered, with costs of suit, before any justice of the peace having competent jurisdiction, at the suit of the party: *Provided*, That no suit or action shall be brought against any person for any penalty incurred under this section, unless suit or action be brought within thirty days from the time of incurring the same, and the defendant or defendants in such action may plead the general issue, and give this act in evidence, with any other special matter.

SEC. 29. The said corporation shall be and they are hereby authorized and empowered to demand and receive the same toll, and proceed in the same manner, to collect the same from the driver, owner, or owners of any stage, carriage, or sleigh in which shall be conveyed the mail of the United States, as they have a right to do from the driver of similar carriages and sleighs drawn by the same number of horses, in which no mail is carried, any law to the contrary notwithstanding; *Provided*, That nothing herein contained shall be so construed as to empower said corporation, their agent or agents, to stop or detain any person, carriage, sleigh, or horse whilst actually employed in the conveyance of said mail.

SEC. 30. It shall be lawful for the county commissioners of the several counties through which said road shall be located, for, and

in behalf of their respective counties, to authorize by an order, as much of the stock to be taken as they may think proper.

SEC. 31. That David C. Branham, Robert Marshall, William Griffin, D. Scheider, and Milton Stapp, are hereby appointed commissioners to locate and establish a turnpike road from the city of Madison to North Madison, and thence to some point on the Michigan road, which road when so laid out and established shall be a part of the Madison and Brownstown turnpike road, and shall, after the organization of said company, under the first election held under the charter, be subject to the control of said company.

SEC. 32. That the commissioners last above named, or a majority of them, shall have power to take releases and enter into contract for right of way and materials, and have damages assessed under the foregoing provisions of this act, and shall have power to open books for the subscription of stock in shares of twenty-five dollars each, and disburse the same on the road so laid out and established, from the city of Madison to North Madison and to intersect the Michigan road.

SEC. 33. That as soon as said commissioners shall have completed a good McAdamized road on the route above described, from the city of Madison to North Madison, they shall have power to erect a toll gate thereon, and then and not until then, shall the said road be put under the control of the Madison and Brownstown turnpike company; and the said Madison and Brownstown turnpike company may at any time open said gate or remove it to some other point on their road.

SEC. 34. That so soon as said turnpike company shall take the control and possession of the road from Madison to North Madison, and to the Michigan road, then the stock taken under the authority and by the direction of said five commissioners above named, shall become a part of the said Madison and Brownstown turnpike company, and shall share the dividends and privileges and be subject to the same contingencies as other stock.

SEC. 35. This act shall be in force from and after its passage, and shall be considered a public act in all courts of record within the state, and in courts of justices of the peace, and be liberally construed.

[The foregoing bill was presented to the undersigned on the 4th day of February 1848, for approval, but pressing official duties having prevented the desired research, it has not been approved nor returned to the Senate with his objections, down to this 11th day of February, 1848, and has become a law. JAS. WHITCOMB.]

## CHAPTER CCCXLVIII.

An Act to incorporate the Portland and Ohio Railroad Company.

[APPROVED FEBRUARY 14, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That George W. Temple, Isaac Hearn, C. D. Searl, Nathan B. Hawkins, Robert Huey, Jonas Votan, and James Davis, of Jay county, be, and they are hereby constituted a body corporate and politic, to be known by the name of and style of the Portland and Ohio Railroad Company, with a right to raise a capital stock sufficient to complete a railroad from Portland, the county seat of Jay county, to the Ohio and Indiana state line, at or near the ninety mile stake on said line aforesaid; and for the purposes contemplated in this section, the provisions of an act entitled an act to incorporate the Greenfield and Shelbyville Railroad Company, approved January twenty-eight, 1847, be, and the same is hereby extended to the persons named in this act.

SEC. 2. The capital stock of said corporation shall be divided into shares of twenty-five dollars each.

SEC. 3. This act to take effect and be in force from and after its passage.

## CHAPTER CCCXLIX.

An Act for the benefit of the New Albany and Salem Railroad Company.

[Passed Senate February 11, 1848, the objections of the Governor to the contrary notwithstanding. TEST, Sec. of Sen.  
Passed House of Representatives February 11, 1848, the objections of the Governor to the contrary notwithstanding. M. S. WARD, Clerk.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the State of Indiana hereby releases to the New Albany and Salem Railroad Company, any and all right of redemption which the State may have under and by virtue of any act heretofore passed, or anything done or to be done by said company.

SEC. 2. This relinquishment shall not take effect on any part of the route of said road, upon which there shall not be put the superstructure, and all preparation for running cars thereon by said company, within five years from the passage of this act.

SEC. 3. The said company shall have the right and power to extend their work or road to any other point or points, than those in-

dictated by the location heretofore made by authority of the state: *Provided*, That said road shall first be constructed from the city of New Albany to the town of Salem, and said town of Salem shall be a point upon the continuous or main line of said road.

*And provided further*, That no road shall be constructed by said company, which shall diverge from the main line of said road between New Albany and Salem, if it shall be found practicable to continue said road from Salem to Columbus, or such other point or points, as said company shall deem best; and in making such extensions or change of routes, said company shall have and enjoy all the powers and rights conferred upon the state, and be subject to all the liabilities on her, imposed by an act entitled "an act to provide a general system of internal improvements," approved January 27, 1836, and an act entitled "an act to provide for the continuance of the construction of all or any part of the public works of this state by private companies, and for abolishing the board of internal improvements, and the office of fund commissioner and chief engineer," approved January 28, 1842.

SEC. 4. That so much of any act or law now in force as render the stockholders of said company liable in their individual right for any of the liabilities of said company, be, and the same is hereby repealed, as to all liabilities by said company to be contracted after the passage of this act.

SEC. 5. That section fourth of an act entitled an act to change that part of the New Albany and Crawfordsville McAdamized road which lies between Salem and New Albany, to a railroad to be constructed by a private company, be, and the same is repealed.

SEC. 6. This act to take effect and be in force from and after its passage and publication in the Indiana State Journal and State Sentinel.

## CHAPTER CCCL.

An Act to vacate a road in Laporte county, and for the relief of O. P. Ludlow.

[APPROVED FEBRUARY 11, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That so much of the road heretofore laid out across sections thirty-two and thirty-three, of township thirty-seven north, range three west, in Laporte county, as is located on the land owned by O. P. Ludlow, be, and the same is, hereby, vacated.

SEC. 2. This act shall be a public act, and shall be in force from and after its passage.

## CHAPTER CCCLI.

An Act to legalize the sale of certain lands.

[APPROVED FEBRUARY 15, 1848.]

WHEREAS, On the 7th day of May, in the year 1846, Sterns Fisher, the general superintendent of the Wabash and Erie canal, sold as such general superintendent, the west half of the southeast quarter, and the east half of the southwest quarter of section number thirty-four (34) in township number thirty-one, (31) of range number twelve (12) east, at the full appraised value of the same, which has since been fully paid into the proper land office: AND WHEREAS, Doubts have arisen as to the legality of said sale; Therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the sale of said land be, and the same is hereby legalized, and the proper officers of State are hereby authorized and directed to issue a patent or patents for the same upon the filing of the final certificates with the auditor of state, which officers shall be governed by the laws and rules heretofore observed in issuing patents for other canal lands sold by the state.

SEC. 2. This act to be in force from and after its passage.

## CHAPTER CCCLII.

An Act authorizing Thomas Ruble to build a mill-dam across the Mississinewa river.

[APPROVED FEBRUARY 9, 1848.]

WHEREAS, Thomas Ruble, of the county of Wabash and State of Indiana, is the legal owner and holder of the certificate of purchase for the south-east quarter of section twenty-nine, township twenty-six north, of range six east;

AND WHEREAS, The Mississinewa river passes through the lot of land above described, leaving sufficient ground on either side to construct the necessary abutments to secure a mill-dam; Therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That Thomas Ruble, of the county of Wabash, be and he

is hereby authorized to erect a mill-dam across the Mississinewa river, at the point above designated, or any other point where he may be the owner of the land on both sides of the river aforesaid.

SEC. 2. This act shall be in force from and after its passage.

## CHAPTER CCCLIII.

An Act to authorize the sale of school section in township 25 north, range 2 west, in Carroll county.

[APPROVED FEBRUARY 12, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That school section No. 16, in township 25, north of range 2 west, in Carroll county, may be sold without the vote heretofore required by law in such cases. Said sale shall be governed and conducted in all things as if this act had never been passed, except as above provided.

SEC. 2. This act shall be a public act and shall be in force from and after its passage.

## CHAPTER CCCLIV.

An Act in relation to the town of Carrollton, in Carroll county.

[APPROVED FEBRUARY 7, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the recorder of Carroll county is hereby authorized to record on the records of said county any plat or amended plat of the town of Carrollton, in said county, that may be presented to him by the original proprietors of said town, or either of them.

SEC. 2. Such recorded plat shall have the same force and effect as though the same had been thus originally recorded.

SEC. 3. All deeds and conveyances heretofore made and executed for any of the lots in said town of Carrollton, or any part thereof, shall be deemed and taken to be as valid and effectual as though the present recorded plat of said town had been correctly numbered

and recorded; *Provided*, They correspond with the numbers of the lots on the plat of said town, which is authorized to be recorded under the provisions of the first section of this act.

SEC. 4. This act to be in force from and after its passage.

### CHAPTER CCCLV.

An Act to change the name of the county seat of Martin county.

[APPROVED FEBRUARY 11, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the name of the town of Hillsborough, in the county of Martin, Indiana, be, and the same is hereby changed to that of Dover Hill.

SEC. 2. This act to be in force from and after its passage.

### CHAPTER CCCLVI.

An Act to abolish the office of school commissioner in the county of Putnam.

[APPROVED FEBRUARY 11, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the office of school commissioner in the county of Putnam, be and the same is hereby abolished, and the duties of said office shall hereafter be performed by the county treasurer, who shall receive the same compensation as is allowed the school commissioner; and he shall be governed by the same laws and subject to the same penalties.

SEC. 2. This act shall take effect and be in force from and after the first Monday in August next.

### CHAPTER CCCLVII.

An Act to authorize the commissioners of the county of Cass to employ a physician for the paupers of said county.

[APPROVED FEBRUARY 11, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the county commissioners of the county of Cass be and they are hereby authorized, at any regular meeting of the board, to contract with a reputable physician by the year, or for a less period, to attend to all paupers of said county, whether at the poor house or elsewhere in said county.

SEC. 2. Said commissioners shall make such allowance to said physician for his services, to be paid out of the county treasury, as they shall deem right and proper or shall by contract stipulate to pay.

SEC. 3. This act to be in force from and after its passage.

### CHAPTER CCCLVIII.

An Act to improve the Huntington and Goshen state road.

[APPROVED FEBRUARY 11, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the legal voters in the counties of Huntington and Whitley, living within two and a half miles of the Huntington and Goshen state road, which runs through said counties, be, and they are hereby, authorized in their several townships, at the next annual April election, to determine, by their vote, how much and what part of their road tax shall be laid out and expended on said two and a half mile territory, and all persons residing as aforesaid on said territory who vote to expend their road tax on the same, shall work out and expend the said road tax in said territory, under the direction of the supervisors in whose districts the same may be.

SEC. 2. This act to take effect and be in force from and after its passage.

## CHAPTER CCCLIX.

An Act to amend an act entitled "An act to provide for the continuance of the construction of all or any part of the public works of this state by private companies, and for abolishing the board of internal improvements, and the officers of fund commissioner and chief engineer," approved January 23, 1842, so far as the same is applicable to the Shelbyville and Edinburgh Railroad.

[APPROVED JANUARY 24, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section eight, in the above entitled act, be, and the same is hereby, so amended that each stockholder shall have and be entitled to one vote in all elections and matters appertaining to the business of the company, for each and every share in said stock so held. This act, however, shall only be construed to apply to the railroad from Shelbyville to Edinburgh.

SEC. 2. All laws contravening the provisions of this act be, and the same are hereby, repealed.

SEC. 3. This act to be in force from and after its passage.

## CHAPTER CCCLX.

An Act to incorporate the Ripley county Medical Society.

[APPROVED FEBRUARY 12, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That William Anderson, Alexander Miller, James K. Frances, Cary Wooly, William T. S. Cornett, and their associates, together with such as may hereafter be associated with them, be, and they are hereby, created a body corporate and politic, with succession for thirty years, by the name and style of the "Ripley County Medical Society of Indiana," and by that name may sue and be sued, plead and be impleaded, in all courts of law and equity; may have a common seal, and the same to alter at pleasure; shall be capable of holding personal and real estate by gift, grant, or devise; may sell, dispose of, and convey the same; *Provided*, The value thereof shall not exceed twenty thousand dollars, and the same shall be devoted exclusively to the object of promoting and elevating the science and its collateral branches.

SEC. 2. That they shall have power to form and ratify a constitution and by-laws for the government of said corporation, the

management and regulation of its fiscal concerns, and admission of members, and appointment of its officers, together with such powers as are necessary and proper for the efficient direction and management of its concerns.

SEC. 3. The incorporators and such other persons as may hereafter be associated with them, shall be deemed and held individually liable for all the debts of the society.

SEC. 4. Any future legislature may alter, amend, or repeal this act; *Provided*, Such alteration, amendment, or repeal shall in no wise affect the title to any property conveyed or acquired under its provisions.

SEC. 5. This act to take effect and be in force from and after its passage.

## CHAPTER CCCLXI.

An Act to locate a state road in Posey and Vanderburgh counties:

[APPROVED FEBRUARY 9, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That James Harris, senior, and Moses Endecot, of Posey county, and Michael Mentzer, of Vanderburgh county, be, and they are hereby, appointed commissioners to view, mark, and locate a state road, commencing at Poseyville, in Posey county, with the Wells' ferry road, thence on the nearest and best ground to intersect the Cynthia road at Michael Mentzer's, of Vanderburgh county, by way of William Young's mill, of Posey county.

SEC. 2. The said commissioners shall meet at Poseyville, in Posey county, on or before the first Monday in July next, or some subsequent day, to be agreed upon by said commissioners, and after having taken an oath faithfully and impartially to discharge the duties assigned them, shall proceed to view, mark, and locate said road, agreeably to the points and directions designated in the first section of this act.

SEC. 3. The said commissioners shall, within thirty days after they shall have located said road as aforesaid, report to the county auditors of the said counties of Posey and Vanderburgh so much of said road as may be located in the respective counties of said auditors, which report the said auditors shall lay before their respective county boards at their next session thereafter, and said county boards shall severally cause the said report, when so made, to be recorded, and order said road to be opened; and said boards doing county business in the counties of Posey and Vanderburgh shall

make such commissioners such compensation as shall be reasonable and right, each county paying its proportion according to distance.

SEC. 4. This act to be in force from and after its passage, and a certified copy deposited in either the clerk's office of Vanderburgh or Posey county.

## CHAPTER CCCLXII.

An Act to amend an act entitled "an act to incorporate the Knightstown and Shelbyville railroad company," approved January 19th, A. D. 1846.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That in all cases when any person through whose land the road may run, shall refuse to relinquish the right of way for the same; or when a contract between the parties cannot be made; the owner may file his claim for damages in the office of the secretary of the company, and select an arbitrator; whereupon the company shall select another, and these two a third, who shall be disinterested men; and within a reasonable time after being sworn, shall proceed to examine the case; and make out, and file their award in the premises with the said secretary, from which award either party may appeal to the circuit court of the county where the secretary keeps his office, which appeal shall be in all things regulated and tried as appeals are, from the judgment of a justice of the peace in this state; said secretary being regarded as such justice in this behalf.

SEC. 2. Whenever any real estate is so taken or is damaged, the arbitrators court, or jury trying the case, shall estimate any and all advantages said road may be to the real estate of the claimant, adjacent or contiguous to that taken, or within one mile thereof; and deduct such advantage from the damage done, and find for the claimant the balance if any there be; if there be none the claimant shall pay costs; if damages be recovered the company shall pay costs.

SEC. 3. Certificates of stock issued pursuant to the provisions of this act may be assigned by the holders by endorsement on the back thereof, but in no case shall the owner of any stock, assign and transfer the same without the consent and approbation of the board of directors; *Provided,* Nothing herein contained shall prevent the owners of stock from transferring it at pleasure after the same is fully paid out.

SEC. 4. In case an appeal is taken to the circuit court as herein provided, the company may continue the road; on the company

securing or tendering to the person owning the land, the amount found by the arbitrator.

SEC. 5. The Greenfield railroad company may connect their road, to the road contemplated in this act, on such terms as the companies may agree upon, and it may be lawful for such companies to contract with each other for the privilege of running cars on either of said roads.

SEC. 6. That sections twenty-three, twenty-four and twenty-five of the above recited act, be, and the same are hereby repealed.

SEC. 7. This act to be in force from and after its publication in the Indiana Journal.

[The foregoing bill was presented to the undersigned on the 4th day of February 1848, for his approval, but pressing official duties having prevented the necessary research, it was not approved, nor returned with his objections to the Senate, before this 11th day of [February.] 1848, and has therefore become a law.

JAS. WHITCOMB.]

## CHAPTER CCCXLXIII.

An Act for the relief of Patrick McGinley.

[Passed the Senate February 9, 1848, the objections of the Governor to the contrary notwithstanding, C. H. TEST, Sec. of Sen.]

Passed House of Representatives February 11, 1848, the objections of the Governor to the contrary notwithstanding, M. S. WARD, Clerk.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the claim of Patrick McGinley against the state, for materials furnished, and work done on the Silver Creek bridge, in Floyd and Clark counties, and for damages sustained, is hereby referred to three disinterested persons, who shall be appointed by the governor, who are hereby empowered to examine and allow or refuse said claim in whole or in part; and when they shall have so examined and determined, the said three persons, or a majority of them, shall make out their award in writing, and file the same in the office of the clerk of the circuit court of Floyd county; which award, when so made, shall be final between the parties, if not appealed from within thirty days; any if by such award said McGinley shall be allowed anything, on presenting a copy of such award, duly authenticated by said clerk, to the auditor of state, said auditor shall audit the same and issue his warrant for the same on the treasurer of state, who shall pay the same out of any moneys

in the treasury not otherwise appropriated. The said three persons in like manner, shall determine who shall pay all or any part of the costs of said investigation; and if they determine the state shall pay any, the same shall be audited and paid in like manner: *Provided*, That if no sum is allowed said McGinley, he shall pay all costs and expenses of said investigation. *And, provided, further*, That a larger sum than that heretofore allowed said McGinley by the Floyd county circuit court, with interest and costs, shall not be allowed him by said persons.

SEC. 2. In making said investigation, the depositions and evidence before said court in the former case, shall be evidence before said arbitrators, with such other evidence as the parties may offer.

SEC. 3. It shall be the duty of the prosecuting attorney of the Floyd circuit court to attend on behalf of the state before said persons, and for that purpose the said three persons, appointed by the governor, shall give, or cause to be given, notice to said prosecuting attorney and the said McGinley of the time and place of their meeting, at least thirty days before the day of said meeting. Said arbitrators may adjourn from time to time, as justice to the case shall require.

SEC. 4. Two of the persons to be appointed by the governor, under the provisions of the first section of this act, shall be men of legal attainments, and before entering upon the discharge of their duty, said three persons shall take an oath, truly and faithfully to examine into, and decide on, the rights of the parties according to the principles of law and justice.

SEC. 5. Before said investigation shall be had, it shall be the duty of said McGinley to file a bond, with good security, in the office of the clerk of the Floyd circuit court, conditioned for the payment of all costs that may be adjudged against him by said arbitrators.

SEC. 6. Either party may appeal to the supreme court at any time within thirty days after the finding of the award. If said McGinley shall appeal, he shall give bond with security, to the satisfaction of the clerk of said Floyd circuit court, in the penalty of two hundred dollars, conditioned that he will prosecute his appeal to effect, and pay all costs occasioned thereby, if judgment shall be rendered against him; and the finding of said court shall be final in the premises—anything in this act to the contrary notwithstanding.

SEC. 7. That said arbitrators shall have power to subpoena all such witnesses as either party shall desire, and compel their attendance, and either party shall have the right to take the depositions of such witnesses as they desire, by giving the usual notice.

SEC. 8. The award contemplated in this act may be set aside by the supreme court for any of the following causes: First. If the same shall have been obtained by fraud, corruption, partiality, or other undue means. Second. If said arbitrators shall have been guilty, in the investigation of said case, of misconduct in refusing

to postpone the hearing upon sufficient cause shown, or in refusing to hear evidence material and pertinent to the controversy, or admit evidence improperly; and either party may, in the progress of said case, take all proper exceptions.

SEC. 9. The supreme court may modify or correct the award contemplated in this act, for any of the following causes: First. If there has been a miscalculation of figures, or an evident mistake. Second. If said arbitrators shall have awarded upon some matter not submitted to them.

SEC. 10. If said case shall be taken to the supreme court, said court may fully examine into the merits of the same, and decide it according to law and justice.

SEC. 11. This act to take effect and be in force from and after its passage.

## CHAPTER CCCLXIV.

An Act to change the name of Granville, in Tippecanoe county.

(APPROVED FEBRUARY 15, 1848.)

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the name of the town of Granville, in Tippecanoe county, be and the same is hereby changed to Weaton, and by that name shall hereafter be called and known.

SEC. 2. This act shall be in force from and after its passage.

## CHAPTER CCCLXV.

An Act authorizing the commissioners of Lagrange county to sell the building erected for the purpose of a county Seminary in said county.

(APPROVED FEBRUARY 11, 1848.)

WHEREAS, It has been represented to the General Assembly, of the state of Indiana, that the inhabitants of Lagrange county, have, under a law of said state, erected and enclosed a building intended to be dedicated to the uses and purposes of a county seminary; that, owing to a large deficiency in the semirany fund of said

county, they are unable to complete said building, and that unless some measures are adopted said building will remain uncompleted and useless for many years to come: Therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the commissioners of said county of Lagrange be and they are hereby authorized to sell and dispose of said building, for the benefit of the seminary fund in said county, at public or private sale for such sum and on such terms as they may think advisable, and as will best subserve the interest of said fund.

SEC. 2. This act to be in force from and after its passage.

#### CHAPTER CCCLXVI.

An Act for the relief of A. G. Selman.

[APPROVED FEBRUARY 9, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That A. G. Selman be allowed the sum of eighteen dollars and eighty-seven cents for articles furnished the state capitol, for the use of the Senate, for eighteen hundred and forty-six.

SEC. 2. *Be it further enacted,* That the auditor of state is hereby required to audit said account, and issue his warrant for the payment of the same.

#### CHAPTER CCCLXVII.

An Act for the benefit of the Recorder of Monroe county.

[APPROVED FEBRUARY 11, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the board of commissioners doing county business in and for the county of Monroe, be and they are hereby authorized to make to the recorder of said county, for fuel and stationery, such annual allowance as may seem to be just and right.

SEC. 2. This act to be in force from and after its passage.

#### CHAPTER CCCLXVIII.

An Act to authorize the county of Laporte to borrow money and increase the tax.

(APPROVED FEBRUARY 11, 1848.)

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That it shall be lawful for the county commissioners of Laporte county to borrow, on the credit of said county, any sum or sums not exceeding two thousand dollars, of the county seminary fund of said county, or of any person or persons.

SEC. 2. That said county commissioners are hereby authorized to levy a tax for county revenue of forty-five cents on each one hundred dollars of taxable property in said county.

SEC. 3. This act shall be in force from and after its passage.

#### CHAPTER CCCLXIX.

An Act to incorporate the Junction Railroad Company.

X SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That Jefferson Helm, Alfred Posey, Horatio G. Sexton, and Daniel Wilson, of the county of Rush; Wm. Russell, George Frybarger, Daniel Hankins, Wm. Tindel, Samuel W. Parker, Henry C. Moore, and Henry Simpson, of the county of Fayette; Henry Langston, John B. Rose, John Norris, Ambrose Reuby, William Bennett, Charles Nutter, John Yargan, Samuel Ridenour, and Benjamin Miller, of the county of Union, their associates and successors, be and they are hereby constituted a body corporate, and shall be and remain such forever, under the name of "The Junction Railroad Company," and by that name said company may contract and be contracted with, sue and be sued, and do all other things proper and usual for similar companies to do: And they are hereby invested with all the powers and privileges, in any wise necessary or expedient, to carry into effect the proper business of the association.

X SEC. 2. Said company is created with a view to the construction of a railroad, with all usual or desirable appendages, to connect the railroad now in progress from Rushville to the Madison and Indianapolis railroad, in this state, with the railroad now in progress from Hamilton to Cincinnati, Ohio. And said road shall be extended from Rushville, through Connersville, on what may be deemed the best route to the most eligible point on the line between the States of Indiana and Ohio. And with the sanction of the State of Ohio

this company shall have the same powers and privileges for the extension of said road through Oxford to Hamilton, in said state, as it may or can have under the provisions of this charter were the whole line within this state. And it shall be lawful to merge in this company, under this charter, either or both of the companies now engaged in constructing the railroad from Rushville, through Shelbyville, to the Madison and Indianapolis railroad, on such terms as the companies directly interested may agree upon, through their respective boards.

SEC. 3. For the purpose of constructing said road, with all desirable appendages, and for putting and keeping the same in repair, and for doing all proper business thereon, said company are hereby authorized to enter upon, take and hold in fee simple all real estate and materials desirable for that purpose, doing no unnecessary damage.

SEC. 4. When such real estate or materials cannot be had by donation or fair purchase, the owner may file his claim for damages, in the office of the secretary of the company, and select an arbitrator; whereupon the company shall select another, and these two a third, who shall be disinterested men; and within a reasonable time, having been sworn, they shall proceed to examine the case and make out and file their award in the premises with said secretary; from which award either party may appeal to the circuit court of the county where the secretary keeps his office, which appeal shall be in all things regulated and tried as appeals are from the judgment of a justice of the peace in this state, said secretary being regarded as such justice in this behalf.

SEC. 5. Whenever any real estate is so taken, or is damaged, the arbitrators, court, or jury trying the case, shall estimate any and all advantage said road may be to the other real estate of the claimant, adjoined or contiguous to that taken, or within one mile thereof; deduct such advantage from the damage done, and find for the claimant the balance only, if any there be; if there be none, the claimant shall pay all costs; if damage be recovered, the company shall pay the costs.

SEC. 6. When the route of this road interferes with any other road, in any way whatever, the company is authorized to change such other road as may be deemed expedient, putting the same in good passable condition prior to obstructing the same, and wherever this road crosses a state or county road the company shall make a safe and convenient crossing.

SEC. 7. Said company may at all times make and establish all such by-laws, rules and regulations, not conflicting with the laws of this state, in reference to their business, as they may deem expedient; and they may fix a penalty to any such laws, rules or regulations of not exceeding one hundred dollars for the violation of the same; and collect the same by action of debt, in any court of competent jurisdiction. But all penal laws, rules, or regulations,

prior to enforcing the same, and all toll rates shall be posted up in some conspicuous place at each depot on the road.

SEC. 8. Any person who may wilfully obstruct, injure, or in any wise interfere with said road, or any of the cars, materials, structure, or appendages connected therewith, or anything belonging to said company, besides the penalty that may accrue, he shall pay the company three fold the damage done on the case being made out before any competent court, and on the trial of all suits brought by, or on behalf of said company, the regularity of their proceedings, to entitle them to sue, shall be presumed; but no common law ground of defence, when made to appear, shall, by this provision, be deemed to have been taken away. And all process against said company shall be served only on the secretary or treasurer.

SEC. 9. The capital stock of said company shall be two hundred and fifty thousand dollars, which may be increased at any time to any amount desirable, for completing said road, with all the appendages, and conducting the business of the company as herein contemplated. Said stock shall be divided into shares of fifty dollars each, and may be taken by individuals, corporations, counties, or states, and may be paid in cash or in any other way, and at such times as may be designated by the company.

SEC. 10. At all elections for directors each stockholder shall have one vote for each share of stock held by him, and the votes may be cast in person or by proxy, given directly to the person voting.

SEC. 11. The persons named in the first section of this act, or any seven of them, shall be the Directors until a full organization of the company is had, and so soon as deemed expedient, they shall meet at Connorsville in said county of Fayette, and organize by the election of a president, secretary, and treasurer; they shall provide for opening the books for the subscription of capital stock, and may commence the construction of said road, and let out the work, at such times, places, and in the manner they may deem best, designating the times and modes of payment for stock; and if deemed expedient, they may cause a random survey and estimate of the cost of the road to be made, and do all other things deemed expedient to do prior to the first election of directors.

SEC. 12. So soon as one hundred thousand dollars of the stock shall have been subscribed, an election for seven directors for said company shall be holden in said town, due notice of the time of such election being given, to serve as such until their successors are elected and qualified. And annually thereafter, on the first Monday in January, there shall be a new election for a board of directors, at the same place, unless the board shall direct the same to be held at some other place, to serve for one year and until as aforesaid. A director shall be the owner of at least five shares of stock, and before taking his seat as such, he shall take an oath faithfully and honestly to discharge his duties as such director, so long as he may remain in office. If for any cause there should be a failure to

make an election on said day, it shall be held so soon thereafter as practicable, thirty days previous notice of such election being given. Each election shall be held by three judges appointed by the board; they may appoint a clerk, and the judges and clerk shall be sworn honestly to discharge their duty.

SEC. 13. When a new board is qualified, they shall elect one of their body as president, to serve as such during the current year; they shall also elect a secretary and treasurer, to serve in like manner. Such bonds may be required of all officers as may be deemed expedient. An official bond shall be required of the treasurer in a reasonable amount, and before entering on the duties of their office, both the treasurer and secretary shall be duly sworn. Five members of the board concurring, they may remove any officer, and fill the vacancy thus made; and any vacancy created in the board, may be filled by a majority of the other members.

SEC. 14. In all cases, except as may be specially provided, a majority of the board shall constitute a quorum to do business; and all the doings of such quorum at a regular meeting, shall be deemed the acts of the company, to all intents and purposes; and statements of such acts or doings, signed by the president, attested by the secretary, with or without the seal of the company affixed, unless some by-law may require the seal, shall at all times and places be deemed the best evidence thereof.

SEC. 15. Said company may negotiate any loan or loans of money, and at any rate of interest deemed expedient, and the principal and interest of all debts so contracted, shall be a lien in their order, on all the property and effects of the company, and the stock of each corporator; all of which, or any part thereof, may be sold on execution or otherwise, as the board may direct, for the purpose of promptly meeting such debts; *Provided*, That when stock is so sold, it shall be taken from each stockholder in rateable proportion, and any stockholder may redeem his stock from such sale, by paying his quota of the money thus raised, into the treasury, within ten days after the sale.

SEC. 16. Payments for stock subscribed in whole or part, at such times and in such sums as the company may require, may be enforced by an action of debt before any competent court, and judgments had, as in this and the next preceeding section contemplated, shall be collectable without the benefit of any stay or valuation laws, and in case an appeal or writ of error be had on any such judgment and the same be decided in favor of the company, besides legal interest on the judgment, ten per centum damages shall be assessed and collected thereon for the company, or the company may, to recover the sum due or demanded, expose the stock of the delinquent to public sale, to the highest bidder, at the office of the company, after reasonable notice, paying any surplus that may arise from the sale to the owner, and when so sold the secretary shall make the proper transfer.

SEC. 17. The stock of the company shall be personal property, and shall be transferable according to the by-laws of the company.

After the road is completed, on the first Monday in July and January, in each year, the company shall of their net profits, declare such dividend as may be deemed just, having a proper regard to the exigencies of the company.

SEC. 18. A journal of all the doings of the board of directors, with the proper stock and account books, for the company, shall be carefully and accurately kept by the proper officers; any of which books may be inspected, at any time by any stockholders, two stockholders applying at the same time for that purpose.

SEC. 19. This act shall be deemed a public act, and shall be liberally construed, it shall take effect from and after its passage, and should the company at any time desire any amendments to this act, it shall be lawful for the legislature to make the same.

[The foregoing bill was presented to the undersigned on the 8th day of February 1848, for approval, but pressing official duties preventing the desired research; it has not been approved nor returned to the Senate with his objections, down to this 15th day of February 1848, and therefore become a law.

JAS. WHITCOMB.]

## CHAPTER CCCLXX.

An Act to authorize Isaac Hiftner and others to build a Mill-dam across Salamonia river.

[APPROVED FEBRUARY 11, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That John Hiftner and Isaac Hiftner, and their associates, be, and they are hereby, authorized to build a mill-dam across the Salamonia river near the town of Mount Etna, in Huntington county: *Provided, however*, That the said John Hiftner and Isaac Hiftner, and their associates as aforesaid, shall be liable for all damages which may be produced by said mill-dam.

SEC. 2. *Be it further enacted*, That Joseph Carney be, and he is hereby, authorized to build a dam across the Wabash river, at his farm about three miles below the town of Huntington, in Huntington county: *Provided*, Said Carney shall be liable for all damages said dam may create.

SEC. 3. This act to be in force from and after its passage.

## CHAPTER CCCLXXI.

An Act levying a road tax in the township of Union, in St. Joseph county, Indiana.

[APPROVED FEBRUARY 11, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That there shall be assessed and collected for the purpose of constructing roads and highways in the civil township of Union, in the county of St. Joseph, Indiana, the sum of two and a half cents on each and every acre of land lying and being within the limits of said township of Union, in the county of St. Joseph, subject to taxation, which shall be in lieu of all taxes on real estate for road purposes in the same, which shall be assessed and placed on the tax duplicate for said county, and collected by the treasurer thereof and distributed according to the laws now in force upon that subject, which tax may be worked out in the road district where the land is situate, at the rate of seventy-five cents per day.

SEC. 2. All moneys that shall be collected under the provisions of the foregoing section, shall be drawn and expended to the best advantage by the supervisors of road districts in said township of Union.

SEC. 3. All laws and parts of laws coming within the purview of this act be, and the same are, hereby, repealed.

SEC. 4. This act to take effect and be in force from and after its passage.

## CHAPTER CCCLXXII.

An Act in relation to the County Records of Lagrange County.

[APPROVED JANUARY 29, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the recorder of Lagrange county, be authorized and required to have deed records, volume 2 and volume 4 rebound; also it shall be the duty of said recorder to transcribe the first records kept in said county, (consisting of three or four loose sheets) in deed book volume 8.

SEC. 2. It shall be the duty of the commissioners of said county to make to said recorder a reasonable allowance for the rebinding said records, and for his services in transcribing such loose sheets, mentioned in section first of this act.

SEC. 3. This act to be in force from and after its passage.

## CHAPTER CCCLXXIII.

An Act to correct a misprint in an act, entitled "An Act to legalize the election of Trustees for the corporation of the town of Greensborough, in Henry county," approved January 14, 1847.

[APPROVED FEBRUARY 11, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the names of Matthew Lymons, Semple B. Stanley, and Joseph S. English are hereby declared a misprint, and that the names of Matthew Lymons, Temple B. Stanley, and Joseph S. Englerth be substituted in lieu thereof.

SEC. 2. This act to take effect and be in force from and after its passage.

## CHAPTER CCCLXXIV.

An act for the relief of the heirs of Louisa Jane Cassatt.

[APPROVED JANUARY 22, 1848.]

WHEREAS, It is represented to this General Assembly that at the October term, A. D., 1847, of the Marion circuit court, sitting in chancery, a decree of said court was rendered in a suit therein pending, wherein James Jones was complainant, and Jacob D. Cassatt, William Steele, Nancy Steele, Edward R. Cassatt, and Ann Elizabeth Cassatt were defendants, for the payment, by the said James Jones, of the sum of five hundred dollars for the use of the said Edward R. Cassatt and Ann Elizabeth Cassatt, heirs of Louisa Jane Cassatt, and for the execution of a deed by a commissioner to the said James Jones for the land described in the decree, which was rendered by the consent of the adult parties, and the infants, by their guardian:

AND WHEREAS, Doubts has since arisen as to the legality of said decree, owing to the infancy of said Edward R. Cassatt and Ann Elizabeth Cassatt: For remedy whereof,

*Be it enacted by the General Assembly of the State of Indiana*, That said decree be, and the same is, hereby, declared to be as valid, obligatory, and binding upon all the parties thereto, and their heirs for all purposes whatever; and said deed, executed by the commissioner under the same, shall convey the estate of the said Edward

R. Cassatt and Ann Elizabeth Cassatt, and their heirs, to the said James Jones and his heirs as fully, to all intents and purposes, as if the said Edward R. Cassatt and Ann Elizabeth Cassatt had been adults at the time said bill was filed, and said decree rendered in the Marion circuit court.

This act to be in force from and after its passage.

## CHAPTER CCCLXXV.

An Act regulating the granting of license to retail spirituous liquors in the counties of Gibson and Dubois.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That whenever any person resident of the counties of Gibson and Dubois shall make application to the board of commissioners doing county business in and for the said counties of Gibson and Dubois, to retail spirituous liquors in less quantity than a quart, and shall produce to said board a receipt from the treasurer of said county showing that the sum of twenty-five dollars has been paid into the treasury of said county, it is hereby made the duty of the board aforesaid to grant to such person a license to retail spirituous liquors in said county in less quantity than a quart.

SEC. 2. That before such person shall be authorized to retail spirituous liquors under the provisions of the foregoing section of this act, he shall in all things comply with the laws now in force in this state, in relation to the retailing of spirituous liquors in less quantity than a quart.

SEC. 3. It shall be the duty of the treasurers of said counties of Gibson and Dubois to keep a separate account of all moneys by him received for the granting of license to retail spirituous liquors under the provisions of this act, and to pay the same over to the school commissioner of said county within twenty days from the time of receiving the same—which said moneys shall be placed in the common school fund of said counties to be loaned out or otherwise disposed of according to the laws now or which may hereafter be in force in this state, relative to common school education.

SEC. 4. That the act entitled an act regulating the granting of license in the counties of Rush, Shelby, Spencer, Harrison, Warrick, Delaware, Union, Dubois, Floyd, Switzerland, Marshall, Cass, and Gibson, approved February 2, 1843, and also the act entitled an act to authorize the people of the several townships of the several

counties to prohibit the retailing of spirituous liquors, approved January 28th, 1847, be and the same are hereby repealed so far as the same applies to the said counties of Gibson and Dubois.

This act to be in force from and after its passage.

## CHAPTER CCCLXXVI.

An Act for the relief of John Boone.

[APPROVED FEBRUARY 11, 1848.]

WHEREAS, John Boone, of the county of Wabash, and State of Indiana, became the purchaser of certain Wabash and Erie canal lands, at a tax sale held in pursuance of law in the county of Wabash, to-wit: The east half of the north-east quarter of section twenty-nine, township number twenty-eight (28) north, range number eight (8) east, containing seventy-nine acres and eighty-five hundredths: Also, fraction of the south-east quarter of the same section, containing eighty-seven acres and sixty hundredths: Also, fraction of the south-west quarter of the same section, containing ninety-one acres and sixty-eight hundredths: Also, fractional section thirty-two of the same township and range, containing eighteen acres and forty-six hundredths: AND WHEREAS, There was large sums of money due the state from the original purchaser, which he had refused or neglected to pay, and which the said Boone has since paid and obtained a certificate of final payment from the proper canal land officer; AND WHEREAS, The laws of this state now in force provides that the auditor of state shall countersign the certificate of final payment, when presented by the original purchaser or his legal assignee, and makes no provision for countersigning final certificates of purchasers of tax titles, whereby the said Boone is prevented from obtaining the patent contemplated by law; For remedy whereof,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the auditor of state is hereby required and directed to countersign the certificates of final payment for the before described lands when presented, upon which a patent shall issue as in other cases.

SEC. 2. This act shall be a public act, and be in force from and after its passage, and a certified copy filed in the office of the auditor of state.

## CHAPTER CCCLXXVII.

An Act for the benefit of Lawronceburgh township, in Dearborn county, Indiana.

[APPROVED FEBRUARY 11, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That whenever the trustees of said township, shall wish to improve and MAdamize any road within the same, under the authority heretofore given, it shall and may be lawful for said trustees to cause any such road to be changed to better or more suitable ground for their intended improvement, and when the same shall not be of sufficient width to widen the same.

SEC. 2. That when the owners of the property through whose land the road or roads run, which the said trustees wish to change, or widen, shall refuse to open the way for such alterations, and shall require damages to be assessed for the same, it shall be lawful for said trustees to apply to the board doing county business in the same manner as individuals may now apply for the change of any road, and like proceeding shall be had thereon: *Provided,* That said township pay the damages so assessed and costs accruing by such proceedings, if in the opinion of the county board it is not just and right, to tax the same up to the county.

SEC. 3. That so much of any act now in force as fixes the rate of compensation of the treasurer of said township, be and the same is hereby repealed; and hereafter the trustees of said township shall have the power to fix the compensation of said treasurer according to the duties rendered, not, however, to exceed the compensation now allowed by law.

SEC. 4. That hereafter said trustees may assess and collect a township tax for the yearly expenses of said township, not exceeding two hundred dollars, and the act limiting the power of said trustees to the levy of not exceeding one hundred dollars for said purposes, be repealed so far as it conflicts with this section.

SEC. 5. That the provisions of the first, second, and third sections of this act be extended to "an act to improve the roads in Centre township, in the county of Dearborn," approved January 18, 1847, and the same is hereby amended accordingly.

SEC. 4. This act shall be in force from and after its passage.

## CHAPTER CCCLXXXVIII.

An Act to amend an act entitled "an act to incorporate the Ohio and Indianapolis Rail Road Company;" approved January 20, 1846.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the time specified in the act entitled "an act to incorporate the Ohio and Indianapolis Rail Road Company," approved January 20, 1846, for the subscription of stock in said company to perpetuate the charter be, and the same is hereby, extended for the term of five years from the passage of this act; and nothing in said act contained shall operate to void said charter: *Provided,* Said company shall complete twenty miles or more of said road within the time specified in said act for the construction of said road.

SEC. 2. Said company shall have the right and power to extend their work from Jeffersonville to any other point or points than those indicated in the act to which this is an amendment, and "to construct such lateral branches, diverging from the main line, as said company may determine necessary and proper.

SEC. 3. For the purpose of constructing the work authorized by this act and the act to which this is amendatory, said company shall have and enjoy all the powers and rights conferred upon the state, and be subject to all the liabilities on her imposed by an act entitled "an act to provide for a general system of internal improvement," approved January 27, 1836, and shall have all the rights, privileges, and franchises granted to certain associations by an act entitled "an act to provide for the continuance of the construction of all or any part of the public works of this state by private companies, and for abolishing the board of internal improvement, and the office of fund commissioner and chief engineer," approved January 28, 1842.

SEC. 4. That so much of any act or law now in force as renders the stockholders or directors of said company liable, in their individual rights, for any of the liabilities of said company be, and the same are hereby, repealed as to all the liabilities of said company, to be contracted after the passage of this act.

SEC. 5. That sections 10, 24, 25, 28, 32, 35 and 36 of the act to which this is an amendment be, and the same are hereby, repealed.

SEC. 6. Said company may, in any of its proceedings, adopt the law of 1842, hereinbefore referred to, or of the act to which this is an amendment; and no act heretofore passed, or anything done or to be done by said company or the commissioners thereof, in opening books, taking subscriptions of stock, or in constructing said road, shall, in any way, vitiate the privileges conferred on said company: *Provided,* It shall proceed hereafter according to the provisions of such portions of either of said acts as said company may elect.

SEC. 7. Said company shall not be authorized to issue any scrip under the provisions of this act.

SEC. 8. This act shall take effect and be in force from and after its passage, and shall be published in the Indiana State Journal and State Sentinel.

[The foregoing bill was presented to me on the 3rd day of February, 1848, and not having returned it to the senate with my objections, nor having signed it as approved within five days thereafter, for want of opportunity to examine the statutes therein referred to, the same became a law on the 8th of said month.

JAMES WHITCOMB.]

February 9th, 1848.

## CHAPTER CCCLXXIX.

An Act to amend an act to revive an act entitled "An Act to incorporate the city of Logansport," approved January 13, 1845.

[APPROVED FEBRUARY 14, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the first section of said act be so amended that the limits of said city shall extend up Eel river to a point due north of Eleventh street, from thence south with said Eleventh street as far as it runs, from thence to the Wabash river, and from thence to the place of beginning.

SEC. 2. That the third section be so amended: *First*. That the first ward shall consist of all the territory in said city south of Market street and south of the Wabash and Erie canal. *Second*. That the fourth ward shall consist of all the territory south of the alley between and parallel with Market street and Broadway, and east and north of the canal. *Third*. In the description of the fifth ward the words "Market street" be stricken out, and "fourth ward" be inserted. *Fourth*. That to the description of the sixth ward there be added all the territory not included in any other ward.

SEC. 3. That where the word "April" occurs in the fourth, twelfth, and fourteenth sections, the same be stricken out, and the word "March" inserted.

SEC. 4. That section eleventh be repealed, and all elections shall hereafter be conducted in such manner as the council may prescribe, and if no mode is prescribed, the voters shall assemble

at the usual places of holding elections, and shall be governed by the laws regulating state elections.

SEC. 5. That so much of section fourteenth as requires the mayor to be elected from among the aldermen be and is hereby repealed, and said mayor shall be elected from among the voters of said city, and not members of the city council.

SEC. 6. That so much of section fifteenth as requires an election of high constable, assessor, attorney, inspector, and auctioneer, be and the same is repealed; and the duties of high constable shall be performed by the treasurer, and of assessor by the recorder, and they shall be liable for the performance of the duties of these offices respectively, and shall receive the fees and emoluments.

SEC. 7. That so much of section twenty-three and twenty-nine as allowed compensation to aldermen be and is hereby repealed.

SEC. 8. That all laws in the act to which this is an amendment that requires publication to be made in a newspaper or newspapers be, and the same is hereby, repealed; and all publications shall be made in such manner as the council may direct.

SEC. 9. That section thirty-six in said act be so amended, that instead of requiring two-thirds of the property holders, a majority of the resident freeholders interested shall be sufficient.

SEC. 10. That section forty-fourth be so amended, that where the term lease or leased occurs, that the words "sell or sold" shall be substituted, and instead of the term "number of years," "the smallest part" be substituted, and that part as to twenty per centum interest be, and is hereby, repealed.

SEC. 11. The owner of any lots sold for taxes shall have a right to redeem the same on the same terms as persons have whose lands are sold for taxes by the county auditor.

SEC. 12. It shall be the duty of the supervisors in each ward to call out the hands in their respective wards liable to work by the act to which this an amendment, on or before the first day of August; and if any able-bodied person, liable to work as aforesaid, shall refuse or neglect to work, and fail to pay one dollar and fifty cents in commutation thereof, or shall idle his time away when pretending to work, it shall be the duty of the supervisor to report all such persons to the mayor on or before the first day of September, and it shall be his duty to cause all such persons so charged to be brought before him, and if no valid excuse is rendered, to commit him to the jail of the county, there to be detained for the same length of time he was required to work, and until the costs of such conviction and keeping are paid; *Provided*, That every person so charged may be discharged any time on payment of one dollar and fifty cents and the costs then accrued; and if the supervisor shall fail or neglect to make the above report, he shall forfeit all compensation for his services during the year, and shall be forthwith removed from office.

SEC. 13. No person shall be entitled to vote at any election who has not paid a poll and road tax for the year preceding, with-

out such person is above the age of sixty years, and in all such cases no poll or personal road tax shall be assessed.

SEC. 14. The city council may, by resolution, require the owners of any lots or piece of land in said city, within a time to be limited by such resolution, to grade the side walks in front of their respective lots, and to curb the side walks, and to gravel or pave the same, and pave the gutters along said side walk, and in case the owners shall neglect or refuse to comply, the supervisor of the ward shall cause the same to be done at the expense of the city, and report the cost of the same to the city recorder, who shall place the same on the duplicate of taxes on the property where said improvements are made, together with the per centum damages, which shall be collected as other taxes; *Provided, nevertheless*, That the said council shall not require less than one side of a square to be paved by any one resolution.

SEC. 15. The city council may, by resolution, require the owner of any lot or piece of ground to fill up the same or to drain it, so as to prevent stagnant water from standing on the same; and they may in like manner require the removal of any nuisance that may affect the public health, convenience, or comfort, and if the owners shall neglect or refuse to comply with said resolution, the same shall be done by the supervisor, and he shall report, and a tax be collected as in the preceding section.

SEC. 16. If any alderman shall vote for any appropriation forbid by this charter, or shall be guilty of gross negligence in the discharge of his duties, he shall be subject to indictment in the Cass circuit court, be liable to a fine of not exceeding one hundred dollars, and such conviction shall operate as removal from office.

SEC. 17. This act to be in force from and after its passage.

#### CHAPTER CCCLXXX.

An Act to revive an act entitled "An act to incorporate the Lafayette and Danville Railroad Company," approved February 5, 1836.

[APPROVED FEBRUARY 14, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the act entitled "An act to incorporate the Lafayette and Danville Railroad Company," approved February 5, 1846, be and the same is hereby revived and continued in full force.

SEC. 2. That Henry L. Ellsworth and Elias L. Beard, of Tippecanoe county, be and they are hereby substituted as directors of said company in the room of Nathan Jackson and William Newell deceased, who were named in the first section of said act.

SEC. 3. That the time for commencing the construction of said road is hereby extended to the term of three years from the date hereof, and the time for the completion of the same is hereby extended to the term of ten years from the date hereof.

SEC. 2. This act to be in force from and after its passage.

#### CHAPTER CCCLXXXI.

An Act to provide for draining swamps and wet lands in Vanderburgh, Cass, Pulaski, and Fulton Counties.

[APPROVED FEBRUARY 14, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That whenever any persons believe that the health or convenience of the public require that any swamps or wet lands ought to be drained, they may petition the county board to cause the same to be done in the same manner and under the same restrictions that applications are made for county roads.

SEC. 2. On the receipt of said petition the county board shall be governed as far as practicable in their duties by the law regulating highways, and they shall appoint viewers who shall cause estimates to be made of the expense in contracts of not exceeding one fourth of a mile, and who shall report as to its utility and costs.

SEC. 3. On the receipt of the report, if the county board shall deem the work useful and practicable, they shall appoint three discreet persons from among the most interested as superintendents over the same, who shall cause said work to be done, and shall have the general superintendence over the same, and who shall report and settle with the county board from time to time, and shall be removable by them: *Provided, nevertheless*, That the said superintendents shall receive no compensation.

SEC. 4. At the same or any subsequent session of the county board, they shall appoint an appraiser who shall assess a tax equal to the estimated cost of such improvement, or that is materially benefited thereby, in proportion to the benefit conferred, and shall report the same to the county auditor, who shall cause the same to be placed on the duplicate of taxes which tax shall be collected as

other taxes, and when so collected shall be paid over to the superintendent, the taxes to be levied and collected by the provisions of this act, shall not exceed the amount of road tax assessed in any one year on such persons and property.

SEC. 5. If said taxes levied shall not be sufficient to finish the improvement so contemplated, the county board may at any time levy an additional tax in the manner contemplated in [the] preceding section.

SEC. 6. The owners of all lands so taxed shall have the right to take a contract to the amount of his tax at the estimate price under such regulations as the superintendent may prescribe, and when completed in the manner and time prescribed, shall receive a receipt from the superintendents, which shall be received in payment of said tax.

SEC. 7. That for collecting the assessments herein authorized to be made, the county treasurer shall receive one fourth of one per cent. on the amount collected for his services.

SEC. 8. The county commissioners may require the superintendents and appraisers to take an oath of office and file an official bond, if they deem the same necessary.

SEC. 9. The owners of all lands taxed as aforesaid for any ditch which does not run through any part of his lands, shall have the right to cut side ditches on the nearest and most direct route, and for ever keep the same in repair.

SEC. 10. This act to be in force from and after its passage, and to be confined in its operation to the counties of Vanderburgh, Cass, Pulaski, and Fulton.

## CHAPTER CCCLXXXII.

An Act to incorporate the Milton and Waterloo Turnpike Company.

[APPROVED FEBRUARY, 11, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That L. C. Chamberlin, Hugh Wallace, of the county of Wayne, and John Grimill, J. Hamilton, William Porter, of the county of Fayette, and Henry Rider, S. N. Norris, of the county of Union, their associates and successors, be, and they are hereby constituted and made a body politic and corporate, under the name and style of the Milton and Waterloo Turnpike Company; and by that name may contract and be contracted with, may sue and be sued, prosecute and be prosecuted to final judgment and execution

in all courts having competent jurisdiction, and do and perform all other things legitimate for such company to do, and they are hereby invested with all the powers and privileges in any wise necessary or expedient to carry into effect the proper business of the association.

SEC. 2. The capital stock of said company shall consist of twenty-five thousand dollars, which may be increased at any time to any sum not exceeding double that amount, that may be deemed expedient to carry into execution the legitimate objects of said company, and said stock shall be deemed personal property.

SEC. 3. Said stock shall be divided into shares of twenty-five dollars each, and may be taken by any individual, company, county, or state, to be paid for in cash, labor, or any kind of property, real, or personal, that may be agreed upon, and in such way and manner, and at such times and places as shall be by the company prescribed.

SEC. 4. Any five of the persons named in the first section of this act, shall constitute a quorum for doing business; and so soon as may be deemed expedient, they shall meet at such place as may be by them agreed upon, and shall proceed to open books for the subscription of the capital stock, and do all other things needful for the full organization of the company.

SEC. 5. In case a quorum should fail to attend at any time and place agreed upon, those attending may either adjourn to another day, or they may consider the stations of the absentees or any of them as vacated, and appoint some proper person or persons to fill the same.

SEC. 6. So soon as may be deemed expedient after fifteen thousand dollars of the capital stock shall have been subscribed, said commissioners shall appoint some suitable time and place for holding an election for five directors, each of whom shall be a stockholder; said commissioners shall in all things manage said election, and give proper certificates to the persons elected, who shall hold their offices for one year, and until their successors are duly elected and qualified; but said first election shall not take place until five dollars on each share subscribed, shall have been paid or secured to the company.

SEC. 7. At said election, and at each subsequent election, each stockholder shall have one vote on each share up to ten, one vote on every two shares above ten up to thirty, one vote on every three shares above thirty and up to sixty, and one vote on every four shares above sixty up to one hundred, but no one shall have to exceed one hundred votes, and each stockholder may vote in person or by proxy given in writing.

SEC. 8. The time, place, and manner of holding all subsequent elections of directors, shall be regulated by the by-laws of the company, except that the elections shall be annual as nearly as may be convenient.

SEC. 9. As soon as the first board of directors shall have been

elected and sworn into office, said commissioners shall deliver over to them the subscription books, together with all other things belonging to the company, said directors shall choose one of their number to act as president, they shall also appoint a secretary and a treasurer, and this mode of organization and qualification shall be continued and observed by each subsequent board of directors, and a majority of said directors shall constitute a quorum to do business, and to supply any vacancies that may occur in their own body.

SEC. 10. Said company shall have power to view, mark, locate and construct a turnpike road from Milton in the county of Wayne, through Waterloo in the county of Fayette to Brownsville in the county of Union, where it will intersect the turnpike road now being made to Oxford; and in constructing said turnpike, said company may follow such plan, and use such materials as they may deem most expedient, and the company may adopt such rules and regulations, and make such by-laws as in their judgment the business and affairs of the company may require, and such as are expedient to perform the duties, and carry out the powers vested by this act; they shall also have the power to appoint all needful officers, agents, and operatives, and require them or any of them to give such bonds as may be deemed expedient, to enforce the payment of all stock subscriptions at such times and places and in such proportions as may be agreed upon, under pains of forfeiture of the shares of stock taken by the delinquent and the payment made thereon to the company; or to sue for and recover the amount due, in an action of assumpsit at their option; to issue proper certificates of stock, and regulate the mode of transferring stock; to acquire, lease, sell and dispose of such real estate as may be expedient for the interests of the company, but no stone or gravel or other materials shall be taken away from any lands without the consent of the owner thereof, until the amount of compensation therefor, shall have been ascertained and paid, when the same are not voluntarily relinquished; to keep said road in repair, to erect, continue, and keep toll gates; to establish, charge, and collect tolls from all such as may use said road, to make and declare dividends of profits to the holders of stock, and to do all other proper acts expedient to be done, in accordance with the intent and meaning of this act.

SEC. 11. If any person or persons shall wilfully and knowingly injure or obstruct said road, or any thing belonging thereto, such person or persons on conviction thereof, before any court of competent jurisdiction shall pay for the use of said company twice the amount of damage done, and costs of suit.

SEC. 12. Plain and accurate accounts of the receipts and expenditures of said company, specifying clearly the nature of each, shall be kept by the company, and shall at all times be subject to the inspection of the stockholders when any two of them shall apply at the same time for such inspection.

SEC. 13. The service of legal process on the president, treasurer, or secretary of said company shall be held in all courts and

places, a sufficient service on said company, and on the trial of all suits and prosecutions brought by said company, the regularity of all their proceedings to entitle them to sue or prosecute, shall be presumed, but no common law ground of defence, when made to appear, shall by any thing therein contained, be so construed to have been taken away.

SEC. 14. The signature of the president of said company attested by the secretary shall be deemed full evidence and authentication of any act of the company, unless it may be in such cases as the by-laws may require to be authenticated by the common seal of the company, and such a seal they are authorized to devise, adopt, and use.

SEC. 15. Said company shall under pain of forfeiture of their charter, begin the construction of said road within two years, and finish the same within five years, and at any time after fifteen years from the completion of said road, the state may buy up the same from said company, at cost.

SEC. 16. This act to be in force from and after its passage, and shall be deemed a public act.

## CHAPTER CCCLXXXIII.

An Act Incorporating the town of Huntington.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That such part of the township of Huntington in the county of Huntington as lies North of Little River and East of the Richardville Reserve in section fifteen, in township No. 28. North of range No. 9 East, together with that part of section fourteen in the township and range aforesaid, as is included in Helvey's and Johnson's additions to the town of Huntington; also that part of section ten in the township and range aforesaid as is included in Murray's addition to the town of Huntington, and also that part of the Richardville Reserve [in] the township and range aforesaid as is included in La Fontaine's addition to the town of Huntington, and also all that part of the Reserve of said —Richardville aforesaid as lies South of the Wabash and Erie canal, and North of Little River, now owned and occupied by George W. Favorite, including all the in-lots and out-lots of the town of Huntington, and the additions thereto, together with the tracts above described, not embraced within the limits of the laid out town of Huntington, be and the

same are hereby erected into a town corporate, which shall henceforth be known and designated by the name of the Town of Huntington; subject however to such repeal, alterations and regulations as the legislature may from time to time prescribe.

SEC. 2. That for the better ordering and governing of said town of Huntington and the inhabitants thereof, there shall be a mayor, recorder and five trustees, who shall be elected and sworn as hereinafter directed; and also that they and their successors, by the name aforesaid, shall be able and capable in law to receive, acquire, hold and enjoy any estate real and personal for the use of said town, (provided that the amount thereof shall not exceed in value at any one time the sum of (\$20,000) twenty thousand dollars,) and shall also be capable in law by the name aforesaid, of suing and being sued, of pleading and being impleaded, in any action or suit in any court of this state; and when any action or suit shall be commenced against the said common council, the first process shall be a summons, an attested copy of which shall be left with the recorder, or at his usual place of abode, at least four days before the return day thereof; and the said common council are hereby authorized to have a common seal for the use of said corporation, and the same to alter or renew at pleasure.

SEC. 3. That the qualified electors who shall have resided six months within the limits of said corporation, immediately previous to any election to be holden under this act, and possess other proper qualifications of a voter as prescribed by the laws of this state, shall assemble between the hours of ten o'clock, A. M. and four o'clock, P. M. on the first Monday of March annually, at the courthouse in Huntington, and then and there elect by ballot a mayor, recorder, five trustees, treasurer and town marshal, who shall be designated on tickets for the respective offices, who shall serve for the term of one year, and until their successors are duly elected and qualified; and each of the said officers shall, within five days after receiving notice of his election, take an oath or affirmation to support the constitution of the United States, and of this state, and also faithfully to discharge the duties of his respective office, to be administered by some person authorized to administer oaths and affirmations; and every election to be held under this act, shall be conducted agreeably to the laws regulating the election of township officers; *Provided*, That a failure to hold any election at the time specified in this section, shall in no case work a forfeiture of the charter of said corporation; but that in case of such failure, an election may be held on any subsequent day, after public notice given by six advertisements, signed by any three persons having the qualifications of electors in said corporation and set up in six public places in said town of Huntington, at least ten days previous to the time appointed for holding said election, which said advertisement shall specify the object of said election, and the time appointed for holding the same, which election shall be held and conducted in the

same manner as is prescribed by the foregoing provisions of this section.

SEC. 4. That the mayor shall be a conservator of the peace within the limits of said township, and shall have the same power of justices of the peace in civil and criminal cases; to apprehend, commit, fine or hold to bail for any offence against the laws of this state, committed within the limits of said township; and in all cases the jurisdiction of said mayor shall be coextensive with the township of Huntington; and the town marshal shall receive and execute all process to him directed, and shall have the same power and authority of a constable in civil and criminal cases; and it shall be the duty of the marshal to suppress all riots, disturbances and breaches of the peace; and to apprehend all rioters, disorderly persons or disturbers of the peace within said corporation, and forthwith convey them before the mayor; and in case of resistance it shall be lawful for him to command the assistance of any bystander or bystanders, in apprehending and conveying such offender or offenders to the mayor's office; and it shall be the duty of the mayor forthwith to hear and determine the complaints: *Provided*, That an appeal shall be allowed to the circuit court from the judgment of said mayor or recorder in all civil and criminal cases, in the same manner and under the same regulations and restrictions as is or may be provided by the law in cases of judgments rendered by justices of the peace.

SEC. 5. That four of the said trustees and the mayor or recorder shall constitute a quorum, and shall, and may from time to time, hold a common council at such places as the mayor or recorder shall appoint, and shall have full power and authority to enact and publish all such laws and ordinances as to them shall seem necessary relative to the regulations of the streets, alleys and highways, keeping the same in repair by cleansing, raising, draining or turnpiking or otherwise; and for causing or requiring by taxation or otherwise, owners of in-lots to pave or McAdamise the side-walks in front of their respective lots, in such part or parts of said corporation as the said common council shall from time to time prescribe, and for establishing and regulating markets, and for restraining swine from running at large within the said corporation belonging to the inhabitants thereof on petition; and also for preventing teams from standing on the street at the crossings from side-walk to side-walk and for the preservation and safety of buildings, for cleaning chimneys, for preventing or extinguishing fires within the limits of said corporation, to impose reasonable fines upon all persons transgressing against the laws and ordinances made as aforesaid, and to enact and publish all such other laws and ordinances as the said common council shall deem necessary and proper for the health, safety, cleanliness, convenience and good government of said corporation and the inhabitants thereof; and also to pass all such other ordinances that may be necessary to carry the provisions and intention of this act into full and complete effect; which said ordi-

nances shall not be contrary to the constitution and laws of the United States or of this state: all which laws and ordinances shall be deposited with, and preserved by the recorder: *Provided*, That all laws and ordinances which shall be passed by said common council, shall be published at length on the door of the court-house in Huntington or in a newspaper published in Huntington, at least ten days by order of said common council; after which publication in manner aforesaid, such laws and ordinances shall be and remain in full force until repealed or modified by the proper authority; and provided also, that nothing in this act contained shall be so construed as to authorize any cattle, sheep, hogs or other animals belonging to any person who is not an inhabitant of said corporation, to be abused, taken up or sold for coming in or passing through the bounds of said corporation.

SEC. 6. That the said common council shall appoint one of their own body to administer all necessary oaths or affirmations, and shall appoint a supervisor of highways, clerk of the market, (when a market is established,) and such other subordinate officers as they may think necessary, who shall hold their respective offices until the first annual election of the common council, and until their successors are elected and qualified; and the said common council shall be, and are, hereby, authorized to allow from time to time such fees to the officers so appointed, and also to the recorder, and to impose such fine or fines on any officer, appointed or elected under this act, for misconduct in office, or for refusing to accept of an office to which they may have been appointed, as to them may seem proper. And the said common council shall also have power to fill all vacancies that may happen in any of the offices of said corporation, and the appointments so made shall continue until the next annual election, and until the successors of the persons so appointed are duly elected and qualified.

SEC. 7. That the mayor of the common council shall [be,] and he is, hereby, authorized and empowered, upon view or information founded upon oath of the violation of any law or ordinance passed by the said common council, to issue a warrant directed to the marshal, commanding him to bring before him (the said mayor) the person or persons properly charged with such violation; and for the purpose of arresting any such offender or offenders against any of the laws or ordinances aforesaid, the jurisdiction of said marshal shall extend throughout the township of Huntington, and shall have power to summon witnesses throughout the county of Huntington; and said mayor shall have power to impose a fine for neglect or refusal to obey such summons, to administer all necessary oaths or affirmations, and to hear and determine such accusation, and upon conviction to impose such fine as the laws of this state and the ordinances shall prescribe, and shall allow to witnesses for attendance fifty cents per day, and to the marshal such fees for serving process and other services required of him as are allowed by law to constables in civil and criminal cases, and tax the costs against

the persons so convicted. And the said mayor or recorder shall cause such fine or fines to be collected, together with costs, by execution directed to the marshal, commanding him to cause to be made the fine or fines so imposed as aforesaid, together with costs, of the goods and chattels of the person or persons so convicted, and if sufficient goods and chattels cannot be found, to commit the person or persons so convicted to the jail of the proper county, as justices of the peace may now commit; and the marshal in executing said process, shall be governed by the same rules and regulations provided for serving executions by constables in such cases, and shall have the same power and authority which is or may be given to them by law; and the said fine or fines, when collected for any breach of any of the ordinances of said corporation, shall be paid over by the marshal to the mayor or recorder of the common council, who shall pay the same to the treasurer of said corporation, to be appropriated under the direction of said common council for the improvement of said town; and all fines assessed for any breach of the penal laws of this state shall be by the mayor or recorder when collected, paid over to the county treasurer in the same manner that justices of the peace are now required by law to pay, and report the same to the board of commissioners: *Provided*, That no person shall be imprisoned under the authority of this section for a longer period than twenty-four hours at any one time.

SEC. 8. That the mayor shall keep a docket in which he shall enter regularly all causes brought before him against any person or persons for violations of the laws and ordinances of the common council or otherwise, and shall, on application of any plaintiff or plaintiffs, defendant or defendants, and the payment of such fees as are allowed by law to justices of the peace in like cases, give to him or them a transcript from his docket, which, when duly entered and recorded by the clerk of the proper circuit court, shall have the effect of transcripts from justices of the peace.

SEC. 9. No person shall be incompetent as a judge, juror, or witness in any action in which said common council is a party or interested in consequence of such persons being an inhabitant, citizen, or freeholder of said town or incorporation.

SEC. 10. That all warrants and processes shall be in the name of the common council of the town of Huntington, sealed with the seal of the corporation, and signed by the mayor, or in his absence or death, by the recorder.

SEC. 11. That the recorder shall, in the absence, death, or disability of the mayor, have, hold, and execute the several offices and duties imposed on the mayor by this act.

SEC. 12. That the common council shall have power to require every able-bodied male person of the age of twenty-one years and upwards, who shall have resided three months next preceding such requisition within the limits of the corporation, to perform two days' labor on the streets and alleys, under the direction of the supervisor of the corporation, in the same manner, and subject to the same

regulations as are provided for in the laws of the state regulating roads and highways.

SEC. 13. That all moneys arising from the road tax assessed and collected on the property within the limits of said corporation by the treasurer of Huntington county, by virtue of the laws now in force, be, and the same are, hereby, appropriated to the use of the streets and alleys within the limits of said corporation, to be expended by the supervisors of said corporation, under the direction of said common council.

SEC. 14. That the said common council shall have power to assess a tax, and shall annually on or before the first Monday of June, certify to the auditor of Huntington county, the amount per centum they require levied for the use of said corporation, on property within the limits of said corporation (as is subject by the laws of this state, to taxation for state, county, and other purposes,) to be levied and collected by the officers of said county in the same manner as other taxes are levied and collected; and said notice shall specify the per centum that will be required to be assessed on the valuation of such property, which shall in no case exceed one half of one per centum on the appraised value of such taxable property; and it shall be the duty of said auditor to levy the tax so required for corporation purposes which shall by the auditor be exhibited on his duplicate in a distinct column made for that purpose, in the same manner as is required by law for levying taxes for township purposes; and said tax so levied for corporation purposes, and all those moneys appropriated or to be collected by virtue of this act, shall be collected and paid over by the county treasurer to the treasurer of the corporation on the order of the county auditor, after deducting and retaining such per centum on the amount so collected, as is by law allowed for collecting the other taxes of the said county.

SEC. 15. That all moneys arising from taxes shall be paid to the treasurer, who shall give bond to the council and their successors in office, to be approved by them, for the faithful discharge of the trust committed to him, and when required by said council shall submit his books to their inspection.

SEC. 16. That the said common council shall be allowed the use of the jail of Huntington county for the confinement of all such persons as shall be liable to imprisonment under the seventh section of this act; and all persons so imprisoned shall be in charge of the keeper of the jail until discharged by due course of law.

SEC. 17. That for the purpose of carrying into effect the powers heretofore granted to said common council to compel the owners of in-lots to pave or McAdamize the side-walk in front of their respective lots, said council are hereby authorized to order that said owners do so pave or McAdamize said side-walk within the period of sixty days after a copy of said ordinance shall have been personally served upon them by the marshal of said corporation, if said owners be resident of said county of Huntington, or if non-resident, by publication for three consecutive weeks in some weekly newspa-

per published in said county, or by written notice posted on the door of the court house in said town of Huntington, for the period of thirty days; and upon failure of said owners to comply with said ordinance within said period of sixty days, said common council shall require the marshal of said corporation to sell out said work to the lowest bidder, after having given ten days' notice of said sale by posting up notices of the same in three of the most public places in said town of Huntington, and the amount for which said labor shall be sold out, together with the costs of the same, shall be returned by said marshal to the recorder of said corporation, who shall certify the same to the auditor of said county on or before the first Monday of June next ensuing, to be by him added to the taxes to be assessed on said lot for the current year, and collected in the same manner as other taxes are collected, and said amount shall be a lien on said lot from the time the notice of said ordinance is served upon the owners as aforesaid.

SEC. 18. That all of that street running parallel with and adjoining to the canal on the north side thereof, together with so much of the street on the south side thereof and running parallel with and adjoining to the same as lies between Cherry and Byron streets, and so much of Washington street as lies west of Cherry street, be and the same are hereby vocated, and the remainder of said street running parallel with the canal on the south side thereof lying west of Cherry street, shall be reduced to ten feet in width adjoining the towing path.

SEC. 19. That a street sixty feet in width is hereby located as follows, to wit: Commencing at the east end of Canal street, in La Fontaine's addition to said town, thence parallel with the canal until the north side of said street extends ten feet north of the southern boundary of in-lot number thirteen, in the original plat of said town, thence parallel with the southern boundary of said lot to in-lot number thirteen on said original plat, thence fifty feet in width along the southern boundary of said lot number thirteen until it intersects Cherry street.

SEC. 20. That the common council shall select three of their number to act as judges of elections for said town, and the mayor and recorder shall act as clerks of such elections, and the poll books shall be filed with the recorder, who shall issue certificates of their election to the persons elected to the various offices by virtue of this act.

SEC. 21. That all future additions and extensions of the present additions to said town shall constitute a part of said town corporate as soon as the same are acknowledged and recorded.

SEC. 22. This act shall take effect and be in force from the time that a certified copy thereof, accompanied by the aforesaid plat of said town, shall be filed in the recorder's office of Huntington county.

## CHAPTER CCCLXXXIV.

An Act supplementary to "an act to incorporate the Crawfordsville and Indianapolis Railroad Company."

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That before the 22d section of the above entitled act, passed at the present session, shall go into operation, the same shall be confirmed by a majority of the votes cast at the usual places of holding elections in the proper county, on such notice not less than thirty days, and with such a form of ballot as the board of commissioners of such county may order and direct.

SEC. 2. This act to be in force from and after its passage.

## CHAPTER CCCLXXXV.

An Act to repeal a part of the act for the relief of the inhabitants of district No. 6, township 22 north, range 2 east, in the counties of Orange and Washington, approved January 22, 1847.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That section three of an act approved January 22d, 1847, entitled an act for the relief of the inhabitants of district number six, in township twenty-two north, of range two east, in the counties of Orange and Washington, be and the same are hereby repealed.

SEC. 2. This act to be in force from and after its passage.

## CHAPTER CCCLXXXVI.

An Act relative to the counties of Carroll and Clinton.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the acts of the trustees of school districts in the counties of Carroll and Clinton, in paying school money to school teachers in the years 1847 and 1848, who had not been examined and obtained certificates of qualification as required by law, be and the same are hereby legalized and made of the force and effect as if said teachers had been examined and obtained and produced certificates of qualifications as required by law.

SEC. 2. This act to be in force from and after its passage.

## CHAPTER CCCLXXXVII.

An Act to define the time when a certain act herein named shall take effect and be in force.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That an act entitled an act to authorize the construction of lines [of] Morse's electro magnetic telegraph in the State of Indiana, and for other purposes, approved February 12, 1848, shall take effect and be in force from and after the day of its approval.

SEC. 2. This act to take effect and be in force from and after its passage.

## CHAPTER CCCLXXXVIII.

An Act to define the law in relation to bailiffs in Hancock county.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That all laws or parts of laws now in force restricting the sheriff of Hancock to a particular number of bailiffs, be and the same are hereby repealed, and it shall be lawful for said sheriff to employ the necessary number of bailiffs in court time, and each bailiff shall be allowed and paid out of the county treasury of said county such sum per day as the said court shall deem proper.

SEC. 4. This act to take effect and be in force from and after its passage, and the secretary of state shall transmit a manuscript copy of this act to the clerk of said Hancock circuit court by mail.

## CHAPTER CCCLXXXIX.

An Act to amend an act entitled "an act to incorporate the Junction Rail Road Company."

[APPROVED FEBRUARY 15, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That an act entitled "an act to incorporate the Junction Rail Road Company" be, and the same is hereby, so amended as compel said company to commence the construction of said road within four years, and complete the same within ten years from the passage of said act.

SEC. 2. This act shall be in force from and after its passage.

## CHAPTER CCCXC.

An Act granting certain powers to the probate court of Dearborn county.

[APPROVED FEBRUARY 16, 1848.]

WHEREAS, George Woldorf, late of Shelby county, Indiana, deceased, died intestate, leaving assets in both the counties of Shelby and Dearborn, in said state: AND, WHEREAS, Much the largest portion of his estate is situate in Dearborn county, and in Hamilton county, State of Ohio, adjoining thereto: AND, WHEREAS, It will be a great saving of expense to said estate (being a very large one) to have administrators appointed in the county of Dearborn. Therefore,

SECTION. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the probate court of Dearborn county, in said state, be, and is hereby, authorized and empowered to grant letters of administration upon the estate of George Woldorf, deceased, late of the county of Shelby, Indiana, in as full and ample a manner as if the said George Woldorf had been, at the time of his death, a resident of the county of Dearborn aforesaid.

SEC. 2. That said court, in all other respects, be governed by the laws now in force regulating the duties of executors and administrators.

SEC. 3. This act to be in force from and after its passage.

## CHAPTER CCCXCI.

An Act to amend an act entitled "an act for the relief of Elias Murray," approved January 27, 1847.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the treasurer of state be, and he is hereby, authorized to pay to Elias Murray two hundred and fifty dollars, in blue dog scrip, or its equivalent in par funds, which shall be in full for his service in selecting and appraising blue dog lands.

This act to take effect and be in force from and after its passage.

## CHAPTER CCCXCII.

An Act to establish a certain state road therein named.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That John P. Holliday and Thomas Arnette, of the county of Hamilton, are hereby appointed commissioners to view, mark, and locate a state road, commencing at the north-west corner of Hancock county; thence on the county line one mile south; thence south on the section line of thirty-two to the south-west corner of section thirty-three, in township seventeen; thence west to section No. four, township sixteen; thence south to the national road.

SEC. 2. The commissioners named above shall meet, as soon as convenient, at the north-west corner of Hancock county, and shall proceed to locate the above named road according to the provisions of chapter sixteen, article first, of the Revised Statutes of 1843.

SEC. 3. This act to take effect and be in force from and after its passage.

## CHAPTER CCCXCIII.

An Act amendatory of an act entitled "an act to incorporate the Rushville and Lawrenceburgh Rail Road Company.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the sixth section of an act entitled "an act to incorporate the Rushville and Lawrenceburgh Rail Road company," shall not be so construed as to authorize the subscription of any capital stock, on behalf of this state, in said company, or for said rail road, unless the same be authorized hereafter by the General Assembly.

SEC. 2. This act to take effect and be in force from and after its passage.

## CHAPTER CCCXCIV.

An Act to restrict the County Commissioners of Stuben County in levying a tax to fifty cent on the one hundred dollars valuation.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That hereafter it shall not be lawful for the board of county commissioners of the county of Stuben to assess or levy or cause to be levied in said county, for county purposes, a tax of more than fifty cents on the one hundred dollars valuation, of the taxable property of said county, in any one year.

SEC. 2. The provisions of this act shall include the poor tax, and all other taxes raised for county purposes in said county.

SEC. 3. This act to be in force from and after its passage.

## CHAPTER CCCXCV.

An Act making provisions for the payment of the witnesses who attended before the Judiciary Committee of the Senate, for the purpose of giving evidence relative to buying and selling canal land scrip, and the receiving of the same without allowing full interest thereon by the trustees of the Wabash and Erie Canal, or their authorized agents.

[APPROVED FEBRUARY 9, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the treasurer of state pay the sum of three dollars per day, for eight days, to each of the following named persons as full compensation for their per diem allowance, as witnesses before the judiciary committee, in the investigation relative to the buying and selling of canal land scrip, and the receiving the same without allowing full interest thereon, by the trustees of the Wabash and Erie canal, and their authorized agents, to-wit: John Sheilds, Job B. Eldridge, John Green, John P. Becker, and Joseph Culvertson, and that John W. Wright, be allowed the sum of three dollars per day for nine days, as witness in the above investigation.

SEC. 2. This act to take effect and be in force from and after its passage.

## CHAPTER CCCXCVI.

An Act for the relief of the late School Commissioner of Delaware county.

[APPROVED DECEMBER 16, 1847.]

WHEREAS, William W. Moore, late school commissioner of Delaware county, is unable to meet all demands against him as such commissioner: AND WHEREAS, It has been ascertained that there will be due from the said commissioner less than five hundred dollars: AND WHEREAS, Many of the citizens of said county have petitioned the legislature to allow the said William W. Moore, to retain whatever may be due from him, by giving bond with personal security to the acceptance of the auditor and treasurer of said county, payable to his successor in office upon the same condition that are imposed upon other borrowers: Therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the said William W. Moore, be, and he is hereby authorized to retain in his hands the amount that may be due from him as such commissioner: *Provided,* The said William W. Moore, will execute his bond with approved personal security to the acceptance of the county auditor and treasurer of said Delaware county, payable to his successor in office, under the same conditions and restrictions that is required of other borrowers of said fund with exception that he shall not be required to give mortgaged security

## CHAPTER CCCXCVII.

An Act to amend an act entitled "An act to incorporate the Lafayette Insurance Company," approved February 8, 1836.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the capital stock of said company shall be, and hereby is reduced to the sum of one hundred thousand dollars.

SEC. 2. The number of directors of said company are hereby reduced to five, who shall have and enjoy all the powers, privileges, and immunities conferred by said act to which this is an amendment.

SEC. 3. Said company may establish agencies for the transac-

tion of their business at any point or points in this state, or in any other of the United States, and to appoint, from time to time, competent persons for discharging the duties of such agencies.

SEC. 4. Said company shall not engage in any banking business or brokerage, nor buy and sell any promissory notes, bills of exchange, or choses in action other than may be necessary to the proper discharge of the business of insuring.

SEC. 5. So soon as the sum of fifty thousand dollars of the stock of said company shall have been paid, or secured to be paid, the directors of said company shall, from time to time, make dividends of the profits of said company among the several stockholders.

SEC. 6. The present members of said company, or persons having any interest in the property of said company, shall meet at the clerk's office in said county of Tippecanoe on any day prior to the first day of July next, and select, upon [out of] their number, five persons who shall serve as directors of said company until the second Monday in October next, and until their successors shall be elected and qualified; and annually thereafter, on the second Monday in October in each year, an election for such directors shall be held at the office of said company, in the town of Lafayette.

SEC. 7. The directors of said company shall, from time to time, cause books to be opened for subscription to the capital stock of said company.

SEC. 8. So much of the act to which this is an amendment, as conflicts with the provisions of this act, are hereby repealed.

SEC. 9. This act shall be in force from and after its passage.

## CHAPTER CCCCXCVIII.

An Act for the relief of the sureties of James H. Kintner, late School Commissioner of Cass County,

[APPROVED FEBRUARY 14, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the board of county commissioners of the county of Cass, be and they are hereby authorized to settle with the sureties of James H. Kintner, late school commissioner of said county, and upon ascertaining the amount due the school fund on the several bonds given by said Kintner and sureties, to divide the amount equally between each of said sureties and take from each of them

a note and mortgage, or other sufficient security for their respective shares.

SEC. 2. Upon the security being given as aforesaid, said commissioners may give such further time for the payment of the principal as they shall deem expedient, the interest being paid annually in advance at the same rate said fund is now loaned by law.

SEC. 3. That when mortgages or other securities are given and accepted by said board of commissioners, said sureties shall be discharged from all liability on the second bonds given as aforesaid, and from all judgments except costs which have been or may hereafter be rendered against them on said bonds; *Provided*, That no one of said sureties shall be discharged as aforesaid, unless each and all of them give the required security.

SEC. 4. This act to be in force from and after its passage.

#### CHAPTER CCCXCIX.

An Act to authorize the Board of County Commissioners of Jay County to borrow money.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the board of county commissioners of Jay county are hereby empowered to procure, by a loan, the sum of two hundred dollars, which said commissioners aforesaid shall apply towards the finishing and completion of the County Seminary building now erected in said county aforesaid.

SEC. 2. That the treasurer, auditor, or school commissioner of the county aforesaid are hereby authorized to loan to said commissioners aforesaid the amount above mentioned of any of the trust funds of said county, or the fund of common schools arising from the sales of section sixteen, township twenty-three north, of range fourteen east, that are or may come into their hands, and not otherwise appropriated.

SEC. 3. That the Seminary fund of said county not otherwise appropriated, shall stand and remain pledged to the said fund or funds aforesaid for the payment of said loan or loans so made, and the interest arising thereon until the said loan or loans are fully paid.

SEC. 4. And the said commissioners aforesaid shall, at any meeting of said board of commissioners, make an order on their books for any amount of said fund or funds so loaned or borrowed that may be on hand at the time of said meeting aforesaid.

SEC. 5. The commissioners of said county aforesaid shall, at any meeting of the board, make an order in behalf of the fund so borrowed or to be borrowed, of amount equal to the amount borrowed, which order shall justify the officers aforesaid to loan said fund or funds aforesaid, and a copy of said order aforesaid shall be sufficient evidence of said debt to the fund from which the same is so borrowed.

SEC. 6. This act to take effect from and after its passage.

SEC. 7. All acts and parts of acts containing [contravening] the provisions of this act are hereby repealed.

#### CHAPTER CCCC.

An Act to explain and amend an act for the relief of the purchasers of the saline lands in Orange county, approved January 22, 1847.

[APPROVED FEBRUARY 16, 1848.]

WHEREAS, Doubts have existed as to the proper construction of the fifth and sixth sections of the above recited act, repealing the amount of compensation to be paid to the commissioner therein named; Therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the sum of fifty cents, the compensation in the said fifth and sixth sections mentioned, was intended, and shall be construed to and be the compensation allowed to said commissioner for the hearing and granting of each application of any purchaser or purchasers for the relinquishment of any of said lands, as by such sections provided, and that nothing in said fifth and sixth sections, or the whole of said act, shall be so taken or construed as to deprive the said commissioner from charging and receiving the same per centum upon the whole amount of money named in any and all of said certificates of relinquishments that was heretofore allowed to him upon the original sale money of any or all of said lands by the laws in force at the passage of the act, to which this act is amendatory.

SEC. 2. That the auditor of state be authorized and required in making any settlement with said commissioner to allow him the same per centum on the amount of money named in the certificate or certificates of relinquishments heretofore or hereafter to be granted by him under and by virtue of the provisions of the said fifth and sixth sections that said commissioner was allowed to charge

and receive upon the original sale money of said land by the laws in force at the time of the passage of the act, to which this act is amendatory.

SEC. 17. This act to be in force from and after its passage.

### CHAPTER CCCCI.

An Act authorizing the commissioners of Lagrange county to increase the salary of the probate judge of said county.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That hereafter the commissioners of Lagrange county shall be authorized to allow to the probate judge of said county one dollar per day for each and every day he may serve as such judge, to be paid out of the county treasury, in addition to the sum already allowed by the state.

SEC. 2. This act to be in force from and after its passage.

### CHAPTER CCCCH.

An Act to authorize the county commissioners of Tippecanoe county to pay for the erection of a bridge across the canal at Green street in Lafayette.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the board of county commissioners of the county of Tippecanoe be and they are hereby authorized to pay out of the county treasury such sums of money as they, in their discretion, may think proper, to the person or persons authorized to receive the same, for the purpose of paying, in whole or in part, for the building of said bridge.

SEC. 2. This act to be in force from and after its passage.

### CHAPTER CCCCH.

An Act allowing the Auditor of Grant county one half of one per centum on all School Funds in the hands of the School Commissioner and County Auditor.

[APPROVED FEBRUARY 15, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the county auditor of Grant county be allowed one half of one per centum on all school funds in the hands of the school commissioner and county treasurer, to be allowed in the same manner as is now allowed to the school commissioner and county treasurer; said auditor to be allowed such fees at the March term of the board of county commissioners; said allowance to be made from and after the first day of March, 1847.

SEC. 2. This act to take effect and be in force from and after its passage.

### CHAPTER CCCCH.

An Act to legalize a survey of the city of Fort Wayne.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the survey of the city of Fort Wayne, as made and reported by S. M. Black and O. Bird, by order of the common council of said city, and recorded in the recorder's office of said city October seventh, 1843, be and the same is hereby legalized and the said survey as made by them, and the location of the streets, lots, lanes, alleys, and center stakes, shall be deemed, taken, and considered for all purposes as the correct and legal location thereof.

SEC. 2. This act to take effect and be in force from and after its passage.

## CHAPTER CCCCIV.

An Act to revive and amend an act entitled an act to incorporate the Perrysville and Danville Railroad Company, approved January 26th, 1836, and an act entitled an act to amend an act entitled an act to incorporate the Perrysville and Danville Railroad Company, approved February 13th, 1840.

(APPROVED FEBRUARY 16, 1848.)

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the act entitled an act to incorporate the Perrysville and Danville Railroad Company, approved January 26th, 1836, and an act entitled an act to amend an act entitled an act to incorporate the Perrysville and Danville Railroad Company, approved February, 13th, 1840, be and the same are hereby revived.

SEC. 2. That Milo Gookins, John F. Smith, Thomas McKibben, Joseph G. English, and George H. McNeil, and their successors in office, are hereby appointed a body corporate and politic, with full power to carry into effect the provisions of the above recited acts, so far as the same does not contravene the provisions of this act; *Provided*, That the said corporation commence the construction of the work provided for in said acts within five years from the passage of this act, and complete it in ten years from its commencement.

SEC. 3. That when the aggregate amount of dividends declared shall amount to fifteen per centum per annum on the capital invested, the board doing county business in the county of Vermillion may so regulate the tolls and freights that not more than fifteen per centum per annum shall be divided, and no other or greater rates of toll shall be collected than shall be necessary to defray the contingent expenses and repairs of said road, but the corporation shall not be compelled by any regulations of said board doing county business to reduce the tolls and freights, so that a dividend of fifteen per centum cannot be made, and it shall be the duty of said corporation to furnish the board of commissioners at the fall term of each year, with a statement of the amount of receipts and expenditures, and the amount of profits, after deducting all expenses, and should the receipts exceed the expenditures, and fifteen per centum on the stock invested, such excess shall be paid into the treasury for the benefit of common schools in said county.

SEC. 4. That the 13th section of the act entitled an act to amend an act to incorporate the Perrysville and Danville Railroad Company be and the same is hereby repealed.

SEC. 5. This act to take effect and be in force from and after its passage.

## CHAPTER CCCCVI.

An Act for the relief of Joseph E. Moore.

[APPROVED FEBRUARY 15, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That Joseph E. Moore be and he is hereby allowed the sum of three hundred and fourteen dollars for supplies furnished the fourth regiment of Indiana volunteers, whilst stationed at Fort Clark, in Clark county, the place of rendezvous of said regiment, that the auditor of state audit the same, and the treasurer pay the same out of any money in the treasury not otherwise appropriated.

SEC. 2. That it shall be the duty of the governor, on the payment of the sum of money in the first section of this act, to take proper and necessary steps to procure the refunding of the said sum of money to the State of Indiana by the general government.

SEC. 3. This act to take effect and be in force from and after its passage.

## CHAPTER CCCCVII.

An Act to incorporate the Indiana Iron Manufacturing Company.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That James B. Redd, Minor W. Redd, and John C. Evans, and their associates, successors and assigns be, and they are hereby made a corporation by the name of the Indiana Iron Manufacturing Company, for the purpose of manufacturing and rolling iron in the town of Cannelton, in the county of Perry, in the State of Indiana, and for this purpose shall have all the powers and privileges, and be subject to all the duties and requisitions contained in the statutes of 1843, chapter 32, article 2, respecting corporations.

SEC. 2. That the capital stock of said corporation shall not exceed two hundred thousand dollars, and the said corporation may be lawfully seized and possessed of such real estate as may be necessary and convenient for the purpose aforesaid, not exceeding the value of twenty thousand dollars, exclusive of buildings, and improvements that may be made thereon by the corporation.

SEC. 3. This act shall take effect and be in force as a public act

for the term of fifty years from and after its passage, unless said corporation shall be sooner voluntarily dissolved by the stockholders of which due public notice shall be given.

## CHAPTER CCCCVIII.

An Act for the relief of the widow of the late William H. May deceased.

(APPROVED FEBRUARY 16, 1848.)

WHEREAS, it is represented to this General Assembly that William H. May, of the State of Indiana, was employed in the American service under the control of the quarter-master of the United States army, and died in Mexico, leaving a wife and three small children residents of this state; AND WHEREAS, it is represented that his widow cannot draw from the government of the United States the balance of pay due her husband at the time of his death without administration upon his estate; Therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the clerk of the probate court of the county of Clark be, and he is hereby, authorized to grant and issue letters of administration to Elizabeth May, of said county, upon the estate of her late husband, William H. May, who died in Mexico; and upon the grant of such letters, no oath shall be administered, nor bond or security required.

SEC. 2. The letters of administration so granted shall authorize the said Elizabeth May to receive from the United States the amount due to her deceased husband at the time of his death, and proper receipts or other papers to execute for that purpose, which shall have the same force and effect as if such letters had been granted under and according to the provisions of the general laws of this state; *Provided, however*, That said Elizabeth May shall not be bound to account for such money as she may receive from the United States under such letter of administration, but shall retain the same as a part of the sum of one hundred and fifty dollars allowed to widows out of the estate of deceased husbands by the laws of this state; *And provided, further*, That under such letters said administratrix so appointed shall not have control of or be bound to administer upon any other portion of her husband's estate, except that she may hold the amount of one hundred and fifty dollars as widow of said decedent.

SEC. 3. This act shall take effect and be in force from and after its passage; and the secretary of state is hereby directed to furnish to said widow a certified copy of this act.

## CHAPTER CCCXC.

An Act for the relief of the sureties of William Johnson.

[APPROVED FEBRUARY 16, 1848.]

WHEREAS, a judgment has been rendered in the Sullivan circuit court in favor of the State of Indiana and against William Johnson, who was the collector of the state and county revenue for the county of Sullivan for the year 1839, on the official bond of the said Johnson as such collector, which judgment is also against William R. Hadden, Milner E. Nash, Isaac Beauchamp, Joseph W. Briggs, William Dixon, and Peter Johnson, as the sureties of the said William Johnson on his said official bond; AND WHEREAS, a part of said judgment was for state taxes charged on the tax duplicate for said year, and not collected by the said William Johnson; AND WHEREAS, a part of said judgment still remains unpaid; Therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the governor shall be authorized to appoint three persons as commissioners, who shall be authorized and required to ascertain the amount of state taxes still remaining unpaid and included in the amount of said judgment, and charged on the tax duplicate of Sullivan county for the year 1839, and also the amount of interest accrued thereon, and also the amount of the penalty or damages thereon included in said judgment, and the amount of interest accrued on the amount of said penalty since said judgment was rendered; and for that purpose the said commissioners, or a majority of them, shall meet at the office of the clerk of the Sullivan circuit court, at such time as they shall agree upon within ninety days from the time of their appointment, and shall proceed to investigate the evidence touching such matters, and determine the true amount of state tax charged on said tax duplicate, and the interest thereon as aforesaid, and shall make a true statement of the amount of said principal, damages, interest, and penalty to the clerk of said court, whose duty it shall be to enter a credit of said amount on said judgment, which shall be in satisfaction of so much of said judgment.

SEC. 2. Before entering upon the duties of their office, each of said commissioners shall take an oath well and truly, according to the best of his abilities, to discharge the duties of his office under this act.

SEC. 3. The clerk of said court is hereby authorized to administer all oaths necessary or proper to be administered for the purposes of this act.

SEC. 4. Whereas, a judgment has been obtained in the Sullivan circuit court in favor of Sullivan county and against the said William Johnson and his sureties on his said official bond; And whereas, a part of said judgment was for county taxes charged on the tax duplicate for the year 1839, and not collected by the said William Johnson; And whereas, a part of said judgment still remains unpaid; Therefore,

*Be it enacted*, That it shall be the duty of the board doing county business in said county, at any meeting of said board, to ascertain and determine the true amount of county taxes charged on the tax duplicate of said county for the year 1839, and still remaining unpaid, and also the true amount of interest accrued thereon, and also the amount of penalty or damages thereon, and included in said judgment, and also the amount of interest accrued on said penalty since said judgment was rendered, and enter the aggregate amount of said principal, interest, and penalty or damages upon the records of said board; and it shall be the duty of the clerk of the Sullivan circuit court to credit said amount on said judgment, which shall be in satisfaction of so much of said judgment.

SEC. 5. This act shall take effect and be in force from and after its passage.

#### CHAPTER CCCCX.

An Act to revive and amend an act entitled "An act to incorporate the Crawfordsville, Covington and Illinois Railroad Company," approved February 5, 1836.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the act to incorporate the Crawfordsville, Covington and Illinois Railroad Company be, and the same is hereby, revived and continued in full force.

SEC. 2. That the further time of five years is given to said company to commence, and ten years to complete, said road, from the

passage of this act; and they shall commence the construction of said road at any point they may deem proper.

SEC. 3. The corporation may unite with any railroad company that now is, or may hereafter be, incorporated, on such terms as may from time to time be agreed upon between the said corporations.

SEC. 4. That the names of John Wilson, John W. Dimmitt, and Daniel Hartsock, of the county of Montgomery, and Joseph Ristine, John Bodley, John Stafford, and Joseph Glasscock, of the county of Fountain, be, and they are hereby, substituted for the names of William Bratton, David Clark, and Thomas M. Curry, of Montgomery county, and Benjamin F. Wallace and Franklin Merrill, of the county of Fountain, as commissioners, in the first section of the act to which this is an amendment.

SEC. 5. That the 37th, 38th, and 39th sections of the act to which this is an amendment be, and the same are hereby, repealed.

SEC. 6. This act shall take effect and be in force from and after its passage, and shall be deemed and taken to be a public act.

#### CHAPTER CCCCXI.

An Act extending the time for supervisors to work their roads in Spencer county.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the time when the several supervisors of roads in this state are required to work all the hands in their road districts two days each, shall be extended until the fifteenth day of August in each year, so far as the county of Spencer is concerned: *Provided, however*, That nothing in this act shall be so construed to repeal any law now in force requiring supervisors of roads to keep their roads in good repair; all laws and parts of laws contravening this act be, and the same are hereby repealed.

SEC. 2. This act to take effect and be in force from and after its passage.

## CHAPTER CCCCXII.

An Act to provide for summoning Petit Jurors in the county of Johnson.

[APPROVED FEBRUARY 15, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That from and after the March term of the circuit court of said county for the year 1848, in each cause to be tried in said court by a jury, it shall be the duty of the sheriff or other officer of such county, when ordered by the court, to select from among the householders or freeholders of said county, twelve jurors to try such cause, who shall in all respects be governed by the general laws providing for the summoning and empannelling grand and petit jurors, and who shall be entitled to the compensation now fixed by law.

SEC. 2. All laws contravening the provisions of this act so far as the same relate to the summoning and empannelling petit jurors be, and the same are hereby repealed, so far as said county is concerned.

SEC. 3. This act shall be in force from and after its passage.

## CHAPTER CCCCXIII.

An Act to change the time of holding the commissioners court of Jefferson county.

[APPROVED FEBRUARY 14, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the board of commissioners of the county of Jefferson shall hereafter hold the spring term of their court on the first Monday of April instead of the first Monday of March.

SEC. 2. All business now pending in said court shall be continued to the said first Monday of April next.

SEC. 3. This act shall take effect and be in force from and after its passage, and the filing a copy of this act in the clerk's office of said county.

## CHAPTER CCCCXIV.

An Act to amend an act entitled "an act to provide for a free turnpike road in Steuben county."

[APPROVED FEBRUARY 14, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That so much of section 4 of an act to provide for a free turnpike road in Steuben county, as makes it lawful for any tax payer to apply his road tax on said road, be, and the same are hereby repealed.

SEC. 2. Every tax payer in Steuben county shall discharge his road tax for any piece of land in the road district where the road is located.

SEC. 3. All laws and parts of laws contravening the provisions of this act are hereby repealed.

SEC. 4. This act to take effect and be in force from and after its passage.

## CHAPTER CCCCXV.

An Act for the relief of the members of the Wabash Fire Company in Lafayette.

[APPROVED FEBRUARY 15, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That hereafter no member of said company shall be required to pay any county poll tax, nor to work on the public highways, nor serve as a juror, or perform any military duty while he remains a member of said company.

SEC. 2. This act to be in force from and after its passage.

## CHAPTER CCCCXVI.

An Act for the relief of Jesse Beard and Elias Beard.

[Passed the Senate February 10, 1848, the objections of the Governor to the contrary notwithstanding. TEST, Sec. Sen.]

[Passed House of Representatives February 11, 1848, the objections of the Governor to the contrary notwithstanding. M. S. WARD, Clerk.]

WHEREAS, It appears to the General Assembly that on the 7th day of June, 1839, Joseph Rener entered into a contract with the board of internal improvement of the State of Indiana, for the construction of section number five of the Wabash and Erie canal, which said contract was duly transferred by said Rener to the said Jesse L. Williams, acting commissioner of said canal: AND WHEREAS, By the terms of said contract the State of Indiana was bound to make payment for said work in good money, or par funds: AND WHEREAS, it also appears that the said J. and E. L. Beard were induced to undertake said work by the expectation of being paid therefor in par funds—that they incurred large expences in preparing to execute said work prior to the suspension of the public works generally by said board—that under said general suspension they were required to suspend said work—that on the resumption of the works on said canal the said J. and E. L. Beard by the advice and direction of William J. Ball, engineer of said canal, went on with their said contract, under the expectation that the state would comply therewith, and performed a large portion thereof before receiving any pay therefor—that there being no par funds of the State to pay their estimates, said J. and E. L. Beard were obliged to receive the same in the depreciated currency called canal scrip, which they did under protest, reserving the right to look to the state for indemnity—and that said J. and E. L. Beard faithfully fulfilled their part of said contract, and were paid therefor wholly in said depreciated currency: Therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the governor of the State of Indiana be, and he is hereby, authorized and required to appoint some suitable person a commissioner on the premises, whose duty it shall be, at such time as he may appoint, to examine and adjust such claim, and after hearing the evidence relating thereto, to ascertain and determine what sum, if any, is justly and equitably due and owing from the state to said J. and E. L. Beard on account of said contract, and to certify the same under his hand to the auditor of state, who shall audit the same, and issue his warrant to the treasurer of State for payment thereof.

SEC. 2. Said commissioner shall make such examination in the town of Lafayette, and shall be allowed for his services the sum of

three dollars for each day he may be engaged therein, to be paid as hereinafter provided. Before entering upon his duties said commissioner shall take an oath or affirmation before some officer authorized to administer oaths, faithfully and impartially to discharge his duties as such commissioner, which oath shall be endorsed on his appointment, and be therewith filed with the auditor of state.

SEC. 3. Said commissioner shall have power to administer oaths or affirmations, to all witnesses that may be examined before him in the premises, who shall be allowed the same fees allowed in the circuit court to be paid as hereafter directed.

SEC. 4. It shall be the duty of the governor to employ some suitable and competent person to act as counsel for the state on such examination whose compensation shall be determined by said commissioner, and paid as hereinafter prescribed.

SEC. 5. Said J. and E. L. Beard shall pay all the expenses of said examination, (including the compensation of the commissioner, witnesses, and counsel of the state,) and shall give bond in the penalty of five hundred dollars, with security to be approved by said commissioner, conditioned to pay all such expences within ten days after the same shall be determined by said commissioner, which bond shall be executed before proceeding with said examination, and shall be filed and transmitted with the award to the auditor of state; said bond shall be payable to state of Indiana, and suit may be brought thereon, for the use of any person interested.

SEC. 6. Said commissioner shall be a man of good legal attainments, and in the investigation of such claim, and in deciding on the rights of the parties, and making up their judgment, be governed by all the rules of law and evidence that govern courts of justice in cases between private persons so far as the same are applicable.

SEC. 7. If either party feels aggrieved at the award of said commissioner, they shall have a right to appeal to the Tippecanoe circuit, or the Tippecanoe court of common pleas, by filing bond with such commissioner, in such sum as said commissioner may require, who shall approve the same and file the papers in the court to which the appeal is taken, in the same time and manner as is provided in case of appeals from justices of the peace, which appeal may be taken in twenty days after such award is made: *Provided*, That the state may appeal without filing bond.

SEC. 8. In case of an appeal to the court and judgment of said Beards, it shall be the duty of the clerk of the court to make the same return to the auditor of state as is required for said commissioner to make under the first section of this act, and said auditor shall be governed by such return in all respects as if said commissioner had made the same.

SEC. 9. This act to be in force from and after its passage.

## CHAPTER CCCCXVII.

An Act for the relief of certain persons therein named in the county of Monroe.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That John M. Berry, commissioner of the reserved township of seminary lands in Monroe county, in said state, or his successor in office be, and he is hereby, authorized and required to hear any proof which Samuel Mathers or John Mathers may present to him, touching a deficit in the quantity of land sold to them, or either of them, by the State of Indiana or the reserved township aforesaid, by and through the commissioner; and upon satisfactory proof being made to him by them, or either of them, as to a deficit in the quantity of land so as aforesaid sold to them, or either of them, that it shall be his duty to compute the deficit in each respective tract of land so as aforesaid sold by the price per acre for which said tracts were respectively sold, and ascertain the amount for which they, or either of them, may be overcharged; and upon ascertaining the same, he shall compute their interest thereon from the day of sale up to the date of having the proof adduced by them, or either of them, touching said deficit; and upon his being fully satisfied of said deficit or deficits, it shall be his duty to allow and accredit to them, or either of them, for the amount of money upon said deficit—computing the interest upon the principal on said deficit or deficits, respectively, up to the date of having said proof; and it shall be his duty to allow to each one of them a credit for said amounts thus found to be overcharged upon the residue of the purchase money respectively due by them, or either of them, upon the land by them purchased of the commissioner of said township, at the time of said sale of said lands to them, in case the amount found to be due to them, or either of them, shall exceed the amount due from them, or either of them, to the said state, for the lands so proven deficit in quantity, and which were purchased by them; the said commissioner shall pay the excess to them, in any money in his hands, accruing from any lands sold in said reserved township; and for the purpose of enabling said commissioner to hear and determine upon said proof, he shall have full power and authority to administer any oath to any witness which may appear before him for said purpose.

SEC. 2. It shall be the duty of said commissioner to make out, and transmit to the treasurer of state, a certified copy of his proceedings, by virtue of this act, within thirty days thereof; and such proceedings shall be sufficient to entitle him to a credit for said sum on said treasurer's books; and for said services the said commissioner shall receive one dollar for each case, and the per centum allowed him by existing laws on all moneys collected by him.

SEC. 3. This act to take effect and be in force from and after its passage.

## CHAPTER CCCCXVIII.

An Act to amend the "act to provide for the continuance of the Madison and Indianapolis rail road to Lafayette," approved January 19, 1846.

(APPROVED FEBRUARY 16 1848.)

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the following parts of an act entitled "an act to provide for the continuance of the construction of all or any part of the public works of this state, by private companies, and for abolishing the board of internal improvements, and the offices of fund commissioner and chief engineer," approved January 28th, 1842, shall not be applicable to the Lafayette and Indianapolis Rail Road Company, nor form a part of the "act to provide for the continuance of the Madison and Indianapolis rail road to Lafayette," approved January 19th, 1846, to wit: the twelfth, twenty-first, twenty-seventh, forty-second, fifty-seventh, fifty-ninth, sixtieth, sixty-second, sixty-fourth, seventy-eighth, seventy-ninth, and eighty-first sections; so much of the eleventh section as requires a full and complete copy of proceedings therein named, of the directors and commissioners, to be made out by their secretary, certified by him under oath, and deposited in the office of secretary of state, at Indianapolis; and so much of the thirteenth section as requires the proclamation of the governor to precede the vesting of corporate rights, privileges, franchises, and immunities, as contemplates the necessity of such proclamation, for any purpose, or imposes a limitation of the continuance of said Lafayette and Indianapolis Rail Road Company.

SEC. 2. It shall be lawful for any corporate body within this state, or without it, to subscribe any number of shares to the capital stock of the said Lafayette and Indianapolis Rail Road Company, in the same manner as individuals may subscribe thereto.

SEC. 3. The said company may, at any time, close the books of subscription to their capital stock, and may expose any of the unsold capital stock of said company to sale, for such price as it will bring, in such manner and upon such terms, and to such persons or bodies corporate, as the board of directors may from time [to time] prescribe.

SEC. 4. That the seventh and eighth sections of the act to which this is an amendment, are hereby repealed.

SEC. 5. This act to be in force from and after its passage, and acceptance of the same by said company.

## CHAPTER CCCCXIX.

An Act to incorporate the New Castle and Knightstown Rail Road Company.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That Miles Murphy, Jacob Brenneman, George Evans, Henderson Hosier, Caleb White, Daniel Mason, John N. Robinson, Henry Lewalling, and James Crowley, of the county of Henry and state of Indiana, their associates and successors, be and the same are hereby constituted a body corporate, and shall be and remain such forever, under the name of the New Castle and Knightstown Rail Road Company; and by that name said company may contract and be contracted with, sue and be sued, and do all other things proper and usual for similar companies to do; and they are hereby invested with all the powers and privileges in any wise necessary or expedient to carry into effect the proper business of the association.

SEC. 2. Said company is created with a view to the construction of a rail road, with all usual and desirable appendages, and for the purpose of extending the Knightstown and Shelbyville rail road from Knightstown in Henry county to New Castle in the same county.

SEC. 3. For the purpose of constructing said road, with all desirable appendages, and for putting and keeping the same in repair and for doing all proper business thereon, said company are hereby authorized to enter upon, take and hold in fee simple, all real estate and materials desirable for that purpose, doing no unnecessary damage.

SEC. 4. When such real estate or materials cannot be had by donation or fair purchase, the owner may file his claim for damages in the office of the secretary of the company, and select an arbitrator; whereupon said secretary shall select another, and these two a third, who shall be disinterested men: and within a reasonable time, having been sworn, they shall proceed to examine the case, and make out and file their award in the premises, with said secretary; from which award, either party may appeal to the circuit court of the county, where the secretary keeps his office, which appeal shall be in all things regulated and tried as appeals are from the justice of the peace in this state; said secretary being regarded as such justice in this behalf.

SEC. 5. Whenever any real estate is so taken, or is damaged, the arbitrator's court, or jury trying the case, shall estimate any and all advantage said road may be to the other real estate of the claimant, adjacent or contiguous to that taken, or within one mile thereof, deduct such advantage from the damage done, and find for the claimant the balance (only, if any there be; if there be none, the claimant shall pay all costs; if damage be recovered, the company shall pay all costs.

SEC. 6. Said company may at all times make and establish all such by-laws, rules and regulations, not conflicting with the laws of this state, in reference to their business, as they may deem expedient; and they may fix a penalty to any such laws, rules or regulations, of not exceeding one hundred dollars for the violation of the same; and collect the same by action of debt in any court of competent jurisdiction; but all penal laws, rules or regulations, prior to enforcing the same, and all toll rates, shall be posted up in some conspicuous place at each depot on the road.

SEC. 7. Any person who may wilfully obstruct, injure, or in any wise interfere with said road, or any of the cars, materials, structures or appendages connected therewith, or any thing belonging to said company, besides the penalty that may accrue, he shall pay the company three fold the damage done, on the case being made out before any competent court; and on the trial of all suits brought by or on behalf of said company, the regularity of their proceedings, to entitle them to sue, shall be presumed; but no common law ground of defence, when made to appear, shall by this provision be deemed to have been taken away; and all process against said company shall be served only on the secretary or treasurer.

SEC. 8. The capital stock of said company shall be one hundred thousand dollars, which may be increased at any time to any amount desirable for completing said road with all the appendages, and conducting the business of the company as herein contemplated. Said stock shall be divided into shares of fifty dollars each, and may be taken by individuals, corporations, counties or states, and may be paid for in cash, or in any other way, and at such time as may be designated by the company.

SEC. 9. At all elections for directors, each stockholder shall have one vote for each share held by him; and the votes may be cast in person or by proxy, given directly by the person voting.

SEC. 10. The persons named in the first section of this act, or any seven of them, shall be the directors until a full organization of the company is had; and so soon as deemed expedient they shall meet at New Castle in Henry county, and organize by the election of a president, secretary and treasurer; they shall provide for opening books for the subscription of capital stock, at such times, places, and in the manner they may deem best, designating the times and modes of payment for stock; and if deemed expedient, they may cause a random survey and estimate of the cost of the road to be made, and do all other things deemed expedient to do prior to the first election of directors.

SEC. 11. So soon as thirty thousand dollars of the stock shall have been subscribed, an election for seven directors for said company shall be held in the town of New Castle, due notice of the time of such election being given, to serve as such until their successors are elected and qualified, and annually thereafter on the first Monday in January there shall be a new election for a board of directors, at such place as the board of directors may direct, to

serve for one year and until as aforesaid. A director shall be the owner of at least five shares of stock; and before taking his seat as such, he shall take an oath faithfully and honestly to discharge his duty as such director, so long as he may remain in office. If for any cause there should be a failure to make an election on said day, it shall be held so soon thereafter as practicable, thirty days' previous notice being given of such election. Each election shall be held by three judges, appointed by the board; they may appoint a clerk, and the judges and clerk shall be sworn honestly to perform their duty.

SEC. 12. When a new board is qualified, they shall elect one of their body as president, to serve as such during the current year; they shall also elect a secretary and treasurer, to serve in like manner; such bonds may be required of all officers as may be deemed expedient; an official bond shall be required of the treasurer, in a reasonable amount; and before entering on the duties of their office, both the treasurer and secretary shall be duly sworn. Five members of the board concurring, they may remove any officer and fill the vacancy thus made; and any vacancy created in the board may be filled by a majority of the members.

SEC. 13. In all cases, except as may be specially provided, a majority of the board shall constitute a quorum to do business; and all the doings of such quorum, at a regular meeting, shall be deemed the acts of the company to all intents and purposes; and statements of such acts or doings, signed by the president and attested by the secretary, with or without the seal of the company affixed, unless some by-law may require the seal, shall at all times and places be deemed the best evidence thereof.

SEC. 14. Said company may negotiate any loan or loans of money, and at any rate of interest deemed expedient, and the principal and interest of all debts so contracted shall be a lien in their order, and all property and effects of the company, and the stock of each corporator; all of which or any part thereof may be sold on execution or otherwise as the board may direct, for the purpose of meeting such debts; *Provided*, That when stock is sold, it shall be taken from each stockholder in rateable proportion; and any stockholder may redeem his stock from such sale, by paying his quota of the money thus raised into the treasury within ten days after the sale.

SEC. 15. Payments for stock subscribed, in whole or in part, at such times and in such sums as the company may require, may be enforced by an action of debt before any competent court: and payment had, as in this and the next preceding section contemplated, shall be collectable without the benefit of any stay or valuation laws, and in case of an appeal or writ of error be had on any such judgment, and the same be decided in favor of the company, besides legal interest on the judgment ten per centum damages shall be assessed and collected thereon for the company; or the company may, to recover the sum due or demanded, expose the stock of the

delinquent to public sale to the highest bidder, at the office of the company, after reasonable notice, paying any surplus that may arise from the sale to the owner; and when so sold, the secretary shall make the transfer.

SEC. 16. The stock of the company shall be personal property, and shall be transferable according to the by-laws of the company. After the road is completed, on the first Mondays in July and January in each year the company shall of their nett profits declare such dividends as may be deemed just, having a proper regard to the exigencies of the company.

SEC. 17. A journal of all the doings of the board of directors, with all proper stock and account books for the company, shall be carefully and accurately kept by the proper officers; any of which books may be inspected at any time by any stockholder, two stockholders applying at the same time for that purpose.

SEC. 18. Nothing in this act contained shall be so construed as to prohibit said company after thirty thousand dollars shall have been subscribed as required by the eleventh section of this act, from letting any or all of said work on said road as contemplated by this act, nor from collecting subscriptions of stock, and such other acts as may be necessary to be done in the prosecution of the same.

SEC. 19. That the work on said road shall be commenced within three years from the passage of this act, and be completed within five years thereafter.

SEC. 20. This shall be deemed a public act and shall be liberally construed; it shall take effect from and after its passage; and should the company at any time desire any amendment to this act, it shall be lawful for the legislature to make the same.

## CHAPTER CCCCXX.

An Act to incorporate the New Castle and Richmond Railroad Company.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That John Powell, Jacob Elliott, Elijah Stout, Robert Boyd, and Moses Robertson, of the county of Henry, and Mark E. Reeves, James Scott, John H. Hulton, and George Gellespie, of the county of Wayne, their associates and successors, be, and the same are, hereby, constituted a body corporate, and shall be and remain such for ever under the name of the "New Castle and Richmond Railroad Company," and by that name said company may contract and be contracted with, sue and be sued, and do all other things proper

and usual for similar companies to do; and they are hereby invested with all the powers and privileges in anywise necessary or expedient to carry into effect the proper business of the association.

SEC. 2. Said company is created with a view to the construction of a railroad, with all usual desirable appendages, and said railroad shall be extended from New Castle, in Henry county, on the most direct and eligible route, to Hagerstown, in Wayne county; thence on the most direct and practicable route to Washington, in said county; thence on the most direct and practicable route to Richmond, in Wayne county, the place of termination.

SEC. 3. For the purposes of constructing said road, with all desirable appendages, and for putting and keeping the same in repair, and for doing all proper business thereon, said company are hereby authorized to enter upon, take and hold in fee simple, all real estate and materials desirable for that purpose, doing no unnecessary damage.

SEC. 4. When such real estate or material cannot be had by donation or fair purchase, the owner may file his claim for damages in the office of the secretary of the company, and select an arbitrator, whereupon the company shall select another, and these two, a third, who shall be disinterested men; and within a reasonable time, having been sworn, they shall proceed to examine the case and make out and file their award in the premises with said secretary, from which award either party may appeal to the circuit court of the county, where the secretary keeps his office; which appeal shall be in all things regulated and tried as appeals are from the judgment of a justice of the peace in this state, said secretary being regarded as such justice in this behalf.

SEC. 5. Whenever any real estate is so taken, or is damaged, the arbitrator's court, or jury trying the case, shall estimate any and all advantage said road may be to the other real estate of the claimant adjacent or contiguous to that taken, or within one mile thereof; deduct such advantage from the damage done, and find for the claimant the balance only, if any there be; if there be none, the claimant shall pay all costs; if damage be recovered, the company shall pay the costs.

SEC. 6. Said company may, at all times, make and establish all such by-laws, rules, and regulations not conflicting with the laws of this state, in reference to their business, as they may deem expedient, and they may fix a penalty to any such laws, rules, or regulations, of not exceeding one hundred dollars for the violation of the same, and collect the same by action of debt in any court of competent jurisdiction; but all penal laws, rules, or regulations prior to enforcing the same, and all toll rates, shall be posted up in some conspicuous place at each depot on the road.

SEC. 7. Any person who may wilfully obstruct, injure, or in any wise interfere with said road, or any of the cars, materials, structures, or appendages connected therewith, or anything belonging to said company, besides the penalty that may accrue, he shall pay the

company three-fold the damage done, on the case being made out before any competent court; and on the trial of all suits brought by or on behalf of said company, the regulating of their proceedings to entitle them to sue shall be presumed; but no common law ground of defence, when made to appear, shall, by this provision, be deemed to have been taken away, and all process against said company shall be served only on the secretary or treasurer.

SEC. 8. The capital stock of said company shall be two hundred and fifty thousand dollars, which may be increased at any time to any amount desirable for completing said road, with all the appendages, and conducting the business of the company as herein contemplated; said stock shall be divided into shares of fifty dollars each, and may be taken by individuals, corporations, counties, or states, and may be paid for in cash, or in any other way, and at such times as may be designated by the company.

SEC. 9. At all elections for directors each stockholder shall have one vote for each share of stock held by him; and the votes may be cast in person or by proxy, given directly to the person voting.

SEC. 10. The persons named in the first section of this act, or any seven of them, shall be the directors until a full organization of the company is had; and so soon as deemed expedient, they shall meet at Hagerstown, in Wayne county, and organize by the election of a president, secretary, and treasurer; they shall provide for opening books for the subscription of capital stock at such times, places, and in the manner they may deem best, designating the times and modes of payment for stock; and, if deemed expedient, they may cause a random survey and estimate of the cost of the road to be made, and do all other things deemed expedient to do prior to the first election of directors.

SEC. 11. So soon as one hundred thousand dollars of the stock shall have been subscribed, an election for seven directors for said company shall be holden in said town, due notice of the time of such election being given; to serve as such until their successors are elected and qualified, and annually thereafter, on the first Monday in January, there shall be a new election for a board of directors at such place, as the board of directors may direct, to serve for one year, and until as aforesaid. A director shall be the owner of at least five shares of stock, and before taking his seat as such, he shall take an oath faithfully and honestly to discharge his duties as such director so long as he may remain in office. If, for any cause, there should be a failure to make an election on said day, it shall be held so soon thereafter as practicable, thirty days previous notice of such election being given. Each election shall be held by three judges, appointed by the board, they may appoint a clerk and the Judges and clerk shall be sworn honestly to discharge their duty.

SEC. 12. When a new board is qualified, they shall elect one of their body as president, to serve as such during the current year. They shall also elect a secretary and treasurer, to serve in like manner; such bonds may be required of all officers as may be deemed

expedient. An official bond shall be required of the treasurer in a reasonable amount; and before entering on the duties of their office both the treasurer and secretary shall be duly sworn. Five members of the board concurring, they may remove any officer, and fill the vacancy thus made, and any vacancy created in the board may be filled by a majority of the members.

SEC. 13. In all cases, except as may be specially provided, a majority of the board shall constitute a quorum to do business, and all the doings of such quorum at a regular meeting, shall be deemed the acts of the company to all intents and purposes; and statements of such acts or doings, signed by the president, and attested by the secretary, with or without the seal of the company affixed, unless some by-law may require the seal, shall at all times and places be deemed the best evidence thereof.

SEC. 14. Said company may negotiate any loan or loans of money, and at any rate of interest deemed expedient, and the principal and interest of all debts so contracted, shall be a lien in their order, on all property and effects of the company, and the stock of each corporator, all of which, or any part thereof, may be sold on execution, or otherwise, as the board may direct, for the purpose of meeting such debts: *Provided*, That when stock is sold, it shall be taken from each stockholder in rateable proportion, and any stockholder may redeem his stock from such sale, by paying his quota of the money thus raised into the treasury, within ten days after the sale.

SEC. 15. Payments for stock subscribed in whole or in part, at such times and in such sums as the company may require, may be enforced by an action of debt before any competent court, and payment had as in this and the next preceding section contemplated, shall be collectable without the benefit of any stay or valuation laws, and in case an appeal or writ of error be had, on any such judgment, and the same be decided in favor of the company, besides legal interest on the judgment, ten per centum damages shall be assessed and collected thereon for the company, or the company may, to recover the sum due or demanded, expose the stock of the delinquent to public sale, to the highest bidder, at the office of the company, after reasonable notice, paying any surplus that may arise from the sale to the owner, and when so sold, the secretary shall make the transfer.

SEC. 16. The stock of the company shall be personal property, and shall be transferable according to the by-laws of the company. After the road is completed, on the first Monday in July and January in each year, the company shall of their net profits, declare such dividends as may be deemed just, having a proper regard to the exigencies of the company.

SEC. 17. A journal of all the doings of the board of directors, with all proper stock and account books, for the company, shall be carefully and accurately kept by the proper officers, any of which

books may be inspected at any time by such stockholder, two stockholders applying at the same time for that purpose.

SEC. 18. Nothing in this act contained shall be so construed as to prohibit said company, so soon as the sum of one hundred thousand dollars shall have been subscribed, as required by the eleventh section of this act, from locating and putting under contract any or all of said road.

SEC. 19. That the work on said railroad shall be commenced within three years after the passage of this act, and completed within five years thereafter.

SEC. 20. This shall be deemed a public act and shall be liberally construed; it shall take effect from and after its passage, and should the company at any time desire any amendment to this act, it shall be lawful for the legislature to make the same.

## CHAPTER CCCCXXI.

An Act to incorporate the Union Literary Institute.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That Daniel Hill, Nathan Thomas, John Randel, John H. Bond, and John Clemons, their associates and successors to the number of thirteen inclusive, be, and they are hereby created a body politic and corporate, to be styled the board of trustees and managers of the University Institute, and by that name to have perpetual succession, with full power to sue and be sued, to plead and be impleaded, to acquire, hold, and convey property, real and personal, to have and use a common seal, to alter and renew the same at pleasure, to make, alter, [and] amend, from time to time such by-laws as they may deem necessary for the government of said institution, its officers students and agents; *Provided*, Such by-laws shall not be inconsistent with the constitution and laws of the United States and of this state; also to have power to confer on those whom they may deem worthy, such honors and degrees as are usually conferred by collegiate institutions.

SEC. 2. That the said institution shall remain where it is now located in Greensfork township, Randolph county, and shall afford instruction in the liberal arts and sciences, and the board of trustees and managers, may, as they shall find themselves able, and the public good shall require it, direct additional departments for such

other branches of education as they may think necessary and useful.

SEC. 3. That the board of trustees and managers shall from time to time appoint a president, and other officers and instructors, and also such agents of the institution as may be necessary, and shall have power to displace or remove any or either of them, for good and sufficient reason, to fill vacancies which may occur by resignation or otherwise, in said board or among said officers or agents, and to prescribe and direct the course of study to be pursued in said institution and its departments.

SEC. 4. Any seven members of the board shall constitute a quorum to do business, and the board shall hold their first annual meeting under this charter on the first Monday in April 1848, at the new building erected for the institute, and afterwards they shall meet on their own appointments.

SEC. 5. The board of trustees and managers shall faithfully apply all funds by them collected and received according to their best judgment, in erecting suitable buildings, supporting the necessary officers, instructors, and agents, and procuring books, maps, charts, and apparatus necessary to the well being and success of the institution; *Provided, nevertheless*, That if any donation or bequest shall be made for particular persons not inconsistent with the design of this institution, and the trustees shall accept and receive the same, every such donation and bequest shall be applied in conformity to the condition and design of the donor.

SEC. 6. The treasurer of the institution shall always, and all other officers and agents, shall when required, before entering on the duties of their respective appointments, give bond for the security of the corporation and the public, in such penal sum, and with such security as the board may approve, and all process against the corporation shall be by summons, and the service of the same shall be by leaving an attested copy thereof with the treasurer, at least ten days before the return thereof.

SEC. 7. The legislature shall have the right to amend this act when they deem it necessary; *Provided*, That no fund or property belonging to the said institution, shall ever be by law appropriated to any other purpose than those named in this chapter.

SEC. 8. This act shall take effect and be in force from and after its passage.

## CHAPTER CCCCXXII.

An Act to incorporate the Huntington, Whitley, and Kosciusko Turnpike Company.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That Samuel Jones, John Alexander, Samuel H. Purviance, and Michael Crum, of Huntington county, with Joseph Pariot and Ebenezer Hookman, of Whitley county, and James S. Defrees and G. W. Parks, of Kosciusko county, and their associates and successors in office, be and they are hereby constituted a body politic and corporate under the name and style of the "Huntington, Whitley, and Kosciusko Turnpike Company," and by that name may contract and be contracted with, sue and prosecute and be sued and prosecuted, to final judgment and execution in all courts having competent jurisdiction, and do and perform all other things legitimate for such company to do, and are hereby invested with all the powers and privileges in any wise necessary or expedient to carry into effect the proper business of the association.

SEC. 2. The capital stock of the company shall consist of fifty thousand dollars, with the privilege of increasing the same at any time to any sum that may be necessary and expedient to carry into effect the legitimate objects of said company; and said stock shall be deemed personal property, and shall be subject to execution in like manner as other personal property.

SEC. 3. Said stock shall be divided into ten shares of ten dollars each, and may be paid for in cash, labor, or any kind of property, real or personal, that may be agreed upon, and in such way and manner and at such times and places as shall be by the company prescribed.

SEC. 4. Any five of the persons named in the first section of this act shall constitute a quorum for doing business, and as soon as may be deemed expedient they shall meet at such place as may be agreed upon, and shall proceed to open books for the subscription of the capital stock, and do all things needful for the full organization of the company.

SEC. 5. In case a quorum shall fail to attend at any time and place agreed upon, those attending may either adjourn to another day, or they may consider the stations of the absentees, or any of them, as vacated, and appoint some proper person or persons to fill the same.

SEC. 6. So soon as may be deemed expedient, after one thousand dollars of the capital stock shall have been subscribed, said commissioners shall appoint some suitable time and place for holding an election for five directors, each of whom shall be a stockholder to the amount of at least two shares; said commissioners shall in all things manage such election and give proper certificates

to the persons elected, who shall hold their offices for one year and until their successors are duly elected and qualified.

SEC. 7. At said election, and each subsequent election, each stockholder shall have one vote on each share up to ten, one vote on every two shares above ten and up to thirty, and one vote on every three shares above thirty and up to sixty; one vote on every four shares above sixty up to one hundred votes; and each stockholder may vote in person or by proxy, given in writing.

SEC. 8. The time, place and manner of holding all subsequent election of directors shall be regulated by the by-laws of the company, except that the election shall be held annually as nearly as may be convenient.

SEC. 9. So soon as the first board of directors shall have been elected and sworn into office, said commissioners shall deliver over to them the subscription books, together with all other things belonging to the company; said directors shall choose one of their number to act as president, they shall also appoint a secretary and treasurer, and this mode of organization and qualification shall be observed and continued by each subsequent board of directors; and a majority of said directors shall constitute a quorum to do business, and to supply any vacancies that may occur in their body.

SEC. 10. Said company shall have power to view, mark, locate, and constitute a turnpike road from Warren, in Huntington county, to the town of Huntington in said county, thereon to Cherry Valley (formerly called Springfield,) in Whitley county, and thereon to Syracuse, in Kosciusko county, and in constructing said turnpike said company may follow such plan and use such materials as they may deem most expedient, and if it shall be found necessary and advantageous to the location and construction of said turnpike road the corporation shall have the right to lay the same along and upon any state or county road; *Provided, however,* That before such location shall be made, the corporation shall make application to the county commissioners of the proper county for such right, and said commissioners are hereby vested with power to grant the same.

SEC. 11. Said company may adopt such rules and regulations, and make such by-laws as in their judgment the business and affairs of the company may require, and such as are expedient to perform the duties and carry out the powers vested by this act; they shall also have the power to appoint all needful officers, agents and operatives, and require them or any of them to give such bond as may be deemed expedient to enforce the payment of all stock subscriptions, at such time and place and in proportions as may be agreed upon under pain and forfeiture of the shares of stock by the delinquent, and the payment made thereon to the company, or to sue for and recover the amount, in action of assumpsit, at their option; to issue proper certificates of stock, and regulate the mode of transferring the same; to acquire, lease, sell, and dispose of such real estate as may be expedient for the interest of the company; to enter upon and take possession of all lands and materials necessary

for the location and construction of said road and its appendages, and to keep the same in repair, being accountable to the owners of the land and materials for such damages as may be just and reasonable, when the same are not voluntarily relinquished; to keep said road in repair; to erect, continue, and keep toll-gates; to establish, charge, and collect from all such as may use said road; to make and declare dividends of profits to the holders of the stock; and to do all other proper acts expedient to be done in accordance with the interest and meaning of this act.

SEC. 12. If any person or persons shall wilfully and knowingly injure or obstruct said road, or anything belonging thereto, such person or persons, on conviction thereof before any court of competent jurisdiction, shall pay, for the use of said company, twice the amount of damage done and costs of suit.

SEC. 13. Plain and accurate accounts of the receipts and expenditures of said company, specifying clearly the nature of each, shall be kept by the company, and shall at all times be subject to the inspection of the stockholders, whenever any two of them shall apply at the same time for such inspection.

SEC. 14. The service of legal process on the president, treasurer, or secretary of said company, shall be held in all courts and places of sufficient service on said company, and on the trial of all suits and prosecutions brought by said company, the regularity of all their proceedings to entitle them to sue or prosecute shall be presumed, but no common law ground of defence when made to appear, shall by any thing herein contained, be construed to have been taken away.

SEC. 15. The signature of the president of said company, attested by the secretary, shall be deemed full evidence and authentication of any act of the company, unless it may be in such cases as the by-laws may require to be authenticated by the common seal of the company, and such seal they are authorized to devise, adopt, and use.

SEC. 16. The said company shall, under pain of forfeiture of their charter, begin the construction of said road within five years, and finish the same within twenty years, and at any time after fifteen years from the completion of said road, the state may buy up the same from said company at cost, and interest at not exceeding six per centum.

SEC. 17. This act shall be in force from and after its passage, and be deemed a public act, and shall be liberally construed, and it may be repealed at any time if said company shall forfeit its charter.

## CHAPTER CCCCXXIII.

An Act to amend an act entitled "an act to incorporate the Terre Haute and Richmond Rail Road Company," approved January 26, 1847.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the 7th section of the act entitled "an act to incorporate the Terre Haute and Richmond Rail Road Company," approved January 26, 1847, be, and the same is hereby, amended so that said company shall be authorized to proceed to the election of directors at any time after fifty thousand dollars have been subscribed and one dollar paid in on each share.

SEC. 2. *Be it further enacted*, That the twelfth section of said act be so amended that the directors of said company shall be authorized to commence operations at any point on said road, and construct, from time to time, such portions thereof as in their judgment shall be most for the interest of the company and the public good.

SEC. 3. *Be it further enacted*, That said company may, instead of making Greencastle a point, run the said line within half a mile of said town: *Provided*, That said company shall not be allowed to run said road at a greater distance than one half mile from the court house in said town of Greencastle.

SEC. 4. *Be it further enacted*, That the proviso to the twenty-fourth section of said act be so amended that any action in that proviso mentioned, may be commenced at any time within six months after the discovery of any perpetrator or perpetrators of the crimes in said section mentioned.

SEC. 5. *Be it further enacted*, That the directors shall have power to prescribe the amount of stock that any person or corporation may subscribe or hold by purchase, either in their own name or in the name of any other person or persons.

SEC. 6. That at least four of the directors of said company shall be selected from subscribers, residing east of Indianapolis, so soon as the sum of twenty thousand dollars of stock is subscribed by persons or corporations east of said place, and so much of the stock as may be subscribed east of the place aforesaid, shall be laid out and expended under the order and directions of the directors so chosen in the construction of that portion of the road contemplated east of Indianapolis.

SEC. 7. *Be it further enacted*, That the thirty-fifth and thirty-sixth sections of said act be, and the same are hereby, repealed.

SEC. 8. That in case the town of Danville is not made a point in the location of said road, each and every person, body politic and corporate, resident in the county of Hendricks, who has heretofore, or may hereafter, previous to the location of said road, subscribe for stock therein, or their assigns, who shall, within one month after the location of said road shall have been published in

said town of Danville, notify the commissioners who opened books and received said subscriptions, or either of them, of his, her, or their intention to relinquish the stock by him, her, or them so subscribed, shall be, from thenceforth, released and discharged from any and all liability on account of such subscription of stock in said road, made as aforesaid.

SEC. 9. That it shall be optional with the directors of said company to accept or reject the provisions of this act, by filing their assent or dissent with the secretary of state, at any time within three months of the passage of this act, and if so accepted, this act shall be in force from the time of said acceptance.

SEC. 10. This act to be in force from and after its passage.

## CHAPTER CCCCXXIV.

An Act to amend an act to incorporate the city of Jeffersonville approved January 27, 1847

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the common council of the city of Jeffersonville shall, at such time as they deem proper in each year, fix the compensation of the officers and appointees designated in the act to which this is an amendment.

SEC. 2. The reference to section fifty-eight, in the fifty-fifth section of said act shall be taken as a reference to section sixty-eight of said act.

SEC. 3. The common council shall, on or before the stated meeting in July in each year, determine what property within said city shall be assessed for taxation for the current year, and it shall not be necessary to determine the amount to be assessed on such property until after the assessment roll shall have been returned.

SEC. 4. Said city in her corporate capacity shall have power to take mortgages on real estate for the purpose of securing any debt due the corporation, and by her agent or attorney under an order of the city council to release the same at pleasure.

SEC. 5. Said city shall also have power to purchase real estate, when, in the opinion of the common council, it may be necessary for the purpose of securing any debt due to said corporation, and to hold, sell, and convey the same in fee simple, at the discretion of the city council.

SEC. 6. The common council are hereby authorized, in the name

of said city, to subscribe for and to hold and dispose of any amount of stock in any railroad or turnpike company or companies, or associations formed or to be formed for the purpose of constructing any railroad or turnpike leading from said city to any other point or points; *Provided*, The stock so held by said city shall not at any time exceed one hundred thousand dollars.

SEC. 7. For the purpose of paying for such stock said city may borrow money and issue bonds therefor, signed by the mayor and attested by the clerk of the city council, or she may issue bonds in the same manner in such several sums, payable at such times and bearing such rate of interest not exceeding seven per centum per annum, payable semi-annually, as may be agreed upon by said city council, and the company or association so formed for constructing any such road.

SEC. 8. Said city council are authorized to assess and cause to be collected, in addition to the ordinary taxes of said city, an annual tax of not exceeding ten per centum upon the amount of such bonds as shall at the time be outstanding, to be set apart and applied towards paying the principal and interest of such bonds.

SEC. 9. The common council shall have power, in their discretion, to lay off said city into road districts and to apportion the lands within the limits of the corporation, who, by the laws of the state would be subject to work on public roads and highways, were it not for the exemption in section thirty-four of the act to which this is amendatory, may appoint supervisors and direct the application of the labor upon such streets within the corporation or upon such roads leading from the city, as the common council may, in their discretion, deem advisable, and the supervisors so appointed shall have the same authority and be governed by the same laws in force regulating the opening and repairing of public roads and highways in the county of Clark; and the citizens within the corporation shall be liable to perform labor on the road designated by the council in the same manner and to the same extent as if the exemption in said section thirty-four of said act of incorporation did not exist, saving and reserving that the right of appointment, direction, and enforcing compliance with the provisions of this act and the acts herein referred to, shall vest only in the city council and the appointees thereof; *Provided*, That said city council may, in their discretion, permit the individual liable to work on public roads and highways under the provisions of this act, and the road laws herein referred to, for his personal privilege, to discharge the liability herein imposed by the payment to the city collector such sum as the city council may direct, not less than fifty cents nor more than one dollar per annum, and any money so received by the collector shall be accounted for and paid into the treasury of said city.

SEC. 10. The common council are hereby authorized to cause to be levied and collected in the same manner as other taxes are levied and collected an amount not exceeding ten cents on the \$100 of the valuation of property, real and personal, within the corpora-

tion, as returned by the city assessor for each current year, which tax, when collected, together with the money paid into [the] city treasury, under the provisions of the last preceding section of this act, shall be specially set apart and applied under the direction of the council, through the appointees thereof, upon any public road or roads leading from said city, or for the payment of principal and interest of any bonds issued by said city for the improvement or construction of roads or as stock therein.

SEC. 11. It is hereby made the duty of the secretary of state to furnish the mayor and common council of the city of Jeffersonville with a certified copy of this act.

SEC. 12. No subsequent act or acts either of a general or special nature shall be so construed as to alter or repeal this act or the act to which this is an amendment, or any of the provisions of either of them, unless such act or acts shall specially name this act or the act to which this is an amendment as being intended to be repealed or amended.

SEC. 12. This act to be in force from and after its passage.

## CHAPTER CCCCXXV.

An Act to incorporate the Tippecanoe Guards in Tippecanoe county.

[APPROVED FEBRUARY 15, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That Andrew Taylor, James R. Oilar, David P. Gray, John Emerson, Perry Castor, and Henry Cope, members of an independent infantry company, organized and in operation in said county of Tippecanoe, with their associates and successors be, and are hereby constituted a body politic and corporate, by the name and style of "*The Tippecanoe Guards*," and by that name shall have perpetual succession, with power to contract and be contracted with, sue and be sued, plead and be impleaded in all courts of law and equity; to have and use a common seal, and the same to alter at pleasure; to elect their officers under such regulations as they may from time to time establish, and in general to establish such by-laws not inconsistent with the constitution and laws of the United States or of this state, as they may deem beneficial to the success and good government of said company.

SEC. 2. The commissioned officers of said company shall be a captain and three lieutenants, who shall be commissioned by the governor of the state, on due notice of their election, and to whom

their resignation shall be tendered; *Provided*, That the commissioned officers heretofore elected, and who now hold commissions in said company, shall remain in office the same as if elected subsequent to this act.

SEC. 3. The non-commissioned officers of said company shall consist of five sergeants and four corporals, together with one quartermaster, one secretary and one treasurer, who shall be elected by the company, and continue in office for the term of one year, which election shall be at such time and place as may be fixed by their by-laws.

SEC. 4. Said company shall have power to levy taxes not exceeding two dollars per year, to assess and collect such fines for non-attendance at parades, drills, or business meetings, not exceeding three dollars per day for each member, and such fines for deficiency in equipments, not exceeding one dollar for each member, as may be ordained by the by-laws of said company.

SEC. 5. All fines assessed or taxes levied by said company, may be sued for and recovered in an action of debt before any justice of the peace or other court having jurisdiction, and the cause of action shall be deemed and taken to be sufficient if made in the following form:

A. B. to the Tippecanoe Guards, Dr. to (naming the particular causes of indebtedness and setting out the amount,) and on the trial of all causes which the company may be a party, their books, records, and papers duly authenticated under the hand of the secretary, shall be admitted in all courts and places as prima facie evidence of the facts therein contained.

SEC. 6. All fines, taxes or penalties collected by said company, shall be for the exclusive use and benefit of this company.

SEC. 7. Said company shall parade at least once in each month, and while in active operation the persons composing the same shall not be required to perform any other militia duty in time of peace, nor pay a poll tax, nor work on the public highways; *Provided*, That said company shall at all times be subject to the civil power when required by the same for the purpose of suppressing all riots and insurrections that may happen in Tippecanoe county.

SEC. 8. It shall be the duty of the captain of said company to furnish each member with a certificate of membership under his hand and seal of said company attached, which certificate the assessor and treasurer of Tippecanoe county, and all other officers interested, are required to notice and respect.

SEC. 9. Said company by purchase or donation may hold any real or personal estate for the use of said company not exceeding three thousand dollars in value, and may organize within themselves such courts as may be necessary to take cognizance of all delinquencies, contempts, and disobedience of orders, or unsoldier-like conduct on the part of any member of said company, and all fines assessed by said courts shall be collected as herein before provided.

SEC. 10. All persons who shall serve for the full term of five years from the date of this enrollment as a member of said company, shall be entitled to a discharge and shall thereafter be exempt from militia duty in this state, except in case of war or insurrection.

SEC. 11. This act to be a public act and construed favorably, in all courts and places, and shall be in full force from and after its passage.

## CHAPTER CCCXXVI.

An Act to amend an act, entitled "An Act to incorporate the Buffalo and Mississippi Railroad Company," approved February 6, 1835, and the several acts amendatory thereto.

[APPROVED FEBRUARY 8, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That Chauncy B. Blair, Andrew L. Osborn, Abraham P. Andrew, Jr., William C. Hannah, and William J. Walker, and their successors in office, to be elected as hereinafter provided, shall be, and they are, hereby, constituted a board of commissioners to take charge of the western division of the Buffalo and Mississippi Railroad, which said western division shall comprise all of said road west of Laporte, in the county of Laporte, and, as such board, they shall be vested with all the powers, rights, and capacities touching the said western division as are now possessed by the directors of said company, and shall in and over said division, for the purposes of constructing, operating, and stocking said road, and for all purposes connected therewith, be clothed with all the rights, privileges, and franchises secured to the directors of said company by the charter thereof, or the amendments made or to be made thereto, and they are hereby authorized to construct all or any part of said road lying west of the village of Laporte, and also a branch of said road from Michigan city to the southern line of the State of Michigan, in the direction of New Buffalo, to connect with the road of the Michigan Central Railroad Company, with all proper fixtures, shops, depots, and other appurtenances.

SEC. 2. Said board of commissioners, under the name and style of the Board of Commissioners for the Western Division of the Buffalo and Mississippi Railroad, shall have full power and authority to enter into contract or contracts, agreement or agreements, with any person or persons, body or bodies politic or corporate in this state or out of it for a loan or loans of money for the purchase of

iron and other materials for the construction of said branch road, and may contract to lease the same for such time as may be deemed expedient, or may in advance contract to make a lease of said branch road and said fixtures, depots, shops, and appurtenances in consideration of an advance of money wherewith to build the same.

SEC. 3. They shall in like manner have full power and authority to enter into any contract or contracts, agreement or agreements with any person or persons, body or bodies politic and corporate, either in the state or out of it, for any loan or loans of money, at a rate of interest not exceeding eight per centum per annum, payable semi-annually, and the principal payable at any time after ten years, subject to the provisions hereinafter provided for the construction of the main line of the said western division of said road, and proper and suitable buildings and appurtenances thereto, and stocking the same, and for change of the rail as hereinafter provided; and if any such loan or loans shall be obtained from the Michigan Central Railroad Company, or its stockholders, or through its agency, it shall be competent for the said commissioners to agree that the western division of said road, or any part of it, shall be constructed, and said money expended in said construction, under the direction and by the superintendent of the Michigan Central Railroad Company, and to place said western division of said road, or any part thereof, into the possession of said company, or the lenders of the said money, together with the stock, fixtures, and appurtenances thereof under a mortgage or other conveyance by way of security, with such or like powers as are described in section one of the amendment to the charter of the Buffalo and Mississippi Railroad Company, approved January 21, 1839, or otherwise as security for the repayment of said loan or loans, with full power to manage, operate, and control the same: *Provided*, That the said commissioners shall in no case, by such mortgage or otherwise, encumber or exercise any control over said road east of Laporte, nor shall any debt created by them constitute any charge or liability upon or against any portion of railroad east of Laporte or the stockholders thereof, subject, however, to be, and the same, on the demand of the said board of directors shall be restored to the possession and control of the directors of said company upon the expiration of the period for which said loan or loans shall be made, and the completion of the entire line of the road of said company across the state; such change of possession, however, not to impair or in any way effect the validity of said mortgage, or the rights of the said mortgagees thereunder; and the said commissioners may make any contract or agreement for the operation and stocking said western division of said road, and for the division of profits thereof as they may deem advisable and may be agreed upon between them and other contracting parties; and in case the lenders of said money, or the mortgagees shall be compelled to enforce said security by reason of any default in payment, and procure a sale of said road west of Laporte, or which may have been conveyed to them, then the pur-

chasers at said sale shall be entitled to the like franchises and privileges as the Buffalo and Mississippi Railroad Company are now entitled to; and said franchises and privileges shall attach to and accompany said railroad: *Provided, however*, The franchises and privileges of the Buffalo and Mississippi Railroad Company, and its rights east of Laporte, shall in nowise be impaired or effected thereby; and said parties loaning said money, or said mortgagees, shall have full power from time to time to repair said road and make such improvements, constructions, and erections out of the earnings of said road as may be deemed necessary to facilitate its business: *Provided*, That until the said western division of said road shall be restored to the possession of said directors of the Buffalo and Mississippi Railroad Company, the Michigan Central Railroad Company, or other party or parties in interest, whether as stockholders or lenders, shall use and operate the railroad upon their own account and at their own risk and expense, and shall take and have all the proceeds thereof in lieu of said interest; and said commissioners may make such contract with the lenders for the division of profits as between them and [the] stockholders as may be deemed just and equitable, and the Buffalo and Mississippi Railroad shall not be, until such surrender, liable for said interest, or for any expenditures for repairs, or for costs of operating the road, until said western division shall be restored to said directors as aforesaid, from which time said eight per centum interest shall become payable, and until that time said parties receiving said profits shall not be required to render any account of the revenues, business or expenditures of or upon said road; and it shall be competent for said commissioners to agree that said western division shall remain in possession of said lenders until said loan shall become due and payable; and in case any permanent erections or improvement shall be made upon said road during said time, or in case it shall become expedient to place upon said road a T rail, the cost and expense of such improvement and change of rail shall be added to the amount of said loan.

SEC. 4. Said parties or mortgagees shall render to the commissioners, and also to the directors of the said Buffalo and Mississippi Rail Road Company, a full statement of all the capital invested in the construction of said western division, and also of all additional investments and erections, and also for the change of the flat rail for the T or heavy rail, in case any such change may be deemed expedient.

SEC. 5. In case it shall so happen from any cause that any portion of the Buffalo and Mississippi rail road shall not be completed within the time required by its charter, or the amendments thereto, such failure to complete said road shall not be deemed a breach or violation of said charter, or of the duties of said company thereunder, but all the rights and privileges granted to the said company and its charter, shall attach to and become the rights and privileges, and the charter of the portion of said road, which shall be completed, and no act or omission of duty done or committed by

the company or directors, or said commissioners thereof, which may be a cause of forfeiture of its franchises, or any part thereof, shall, in any way, impair or affect the rights of the lenders of said money, or the said mortgagees or their assigns, secured to them, under said charter and amendments thereto.

SEC. 6. In case of any appeal from the judgment of any justice of the peace, upon any report of any jury for the appraised [amount] of damages touching the right of way, or for lands taken for the purpose of constructing thereon the road of said company, as provided in its charter and amendments thereto, such appeal shall not prevent the said company from proceeding in the construction of said road over such lands, nor deprive it of its right of entry thereon for that purpose; which right is hereby expressly granted: *Provided*, That before said company shall so enter and construct said road, it shall either tender to the owner of said lands the full amount of damages which shall have been adjudged to him or her, or shall pay the same into the court to which such appeal may be taken, subject to the order of said court, and every such appeal shall be taken within twenty days from the rendition of said judgment, and not afterwards, and acceptance of the amount of the judgment when tendered, shall in all cases be taken to be a waiver of the right to appeal, and a certified copy of the transcript of the judgment of the said justice or of the court to which such appeal shall be taken, may be taken by the company, and caused to be recorded in the recorder's office of the county where said lands are situate, and such record shall be notice to all the world of the right of the company; and if, in case of any appeal, judgment shall be recovered against said company for a larger amount than was recovered before said justice, then said company shall, within sixty days from the date of said judgment, pay the difference between the amount of the judgment before the justice and that before the said court, in case the amount of the judgment before the justice shall have been previously paid into court; and if not, then the whole amount of said judgment, in the appellate court, shall be paid to the owner of said land within the same time, or, in default thereof, execution may issue therefor; and in case it shall, at any time, be found that the said company is or shall be in possession of land, the title to which has not been made perfect in said company, it may obtain title to the same by appraisal, judgment, and the payment therefor, as in other cases provided for in said charter and amendments thereto.

SEC. 7. In case any person shall wish to become a stockholder in said western division of said road, the said commissioners shall have power to open books at Laporte and Michigan City, under such regulations as they may deem proper, for subscription of stock, and shall have and exercise the same power to collect the subscriptions and enforce payment thereof, as the charter of the said company secures to the directors thereof, and in the same manner; and in case loans of money should also be made, the said commissioners may make such agreement with the lenders thereof, relative to

the dividend upon said stock, as between the said stockholders and lenders, as may be deemed by the parties contracting just and proper.

SEC. 8. Whenever the portion of the road which may be mortgaged under this act, or placed in the control of the Michigan Central Railroad Company, or the lenders of said money shall be restored to the possession of the Buffalo and Mississippi railroad company, it shall nevertheless be the duty of the Buffalo and Mississippi Railroad Company, and it is hereby required thereafter always to transport freight and passengers to and from Michigan city, and to and from the depots used by the Michigan Central Railroad, at Michigan city, and over that portion of the Buffalo and Mississippi Railroad between Michigan city and the Illinois line, for the rates of fair which shall not exceed per mile the lowest rates charged to any other parties on any portion of the whole of the said Buffalo and Mississippi Railroad, or any road connected therewith, by contract or otherwise, in the division of profits, and shall draw the cars of the Michigan Central Railroad Company over the road between Michigan city and the Illinois line, with the engines of the Buffalo and Mississippi Railroad company in such a manner as to accommodate the Michigan Central Railroad Company in the transportation of its freights and passengers, allowing said company a just and reasonable compensation for the use of its cars; and the width of the track of the Buffalo and Mississippi Railroad shall not in any case be changed so as to defeat this object, and in case it shall so happen that the money so loaned and secured by mortgage should not be paid, and said mortgage shall be foreclosed as contemplated in this act, and the property in said western division, or in said road from Michigan city to the Illinois line, shall become vested in any other parties than the Buffalo and Mississippi Railroad Company, then and in that case the parties that shall become the purchasers, and their assigns, shall be forever required to transport freight and passengers over said road between Michigan city or Laporte, as the case may be, and the Illinois state line, and to and from Michigan city or Laporte, as the case may be, and to and from the road of the Buffalo and Mississippi Railroad Company, in connection therewith at either of those points, for rates of fare, which shall not exceed per mile the lowest rates charged to any other parties, on any portion or the whole of the Michigan Central Railroad, or any road connected therewith by contract or otherwise in the division of profits; and shall draw the cars of the Buffalo and Mississippi Railroad Company between Michigan city or Laporte, as the case may be, and the Illinois line, with the engines of the party purchasing said road, or their assigns, in such a manner as to accommodate the Buffalo and Mississippi Railroad Company in the transportation of freight and passengers, allowing said company a just and reasonable compensation for the use of said cars, but charging freight as aforesaid, and in like manner, and in all respects; in case that portion of the Buffalo and Mississippi Railroad east of Laporte, and between Laporte and Michigan city, shall be completed and put in operation before the said western division, or that portion of said road from Michigan

city to the Illinois line, shall be restored to the possession of the Buffalo and Mississippi Railroad company, it shall be the duty of the Michigan Central Railroad Company, or other party or parties in interest, to transport the freight and passengers and draw the cars of the Buffalo and Mississippi Railroad Company over said western division, or the said road from Michigan city to the Illinois line, so as to accommodate the Buffalo and Mississippi Railroad Company in the transportation of freight and passengers, and subject to the same terms as the charges for freight, and pay for the use of cars.

SEC. 9. In case said road shall be sold under said mortgage, and the property therein, and the franchises thereof, shall become vested in any parties other than the Buffalo and Mississippi Railroad Company, or in case said portion of said road should remain in the possession of said company, and the charter of said company on the residue of said routes should by any contingency become forfeited, and that subsequently said charter should be revived, or a new one granted, then and in that case the parties that shall become purchasers, or otherwise have possession of said portion of said road, and their assigns, shall be required forever to transport freight and passengers over the said road between Michigan city, or Laporte, as the case may be, and the Illinois state line, to and from Michigan city, or Laporte aforesaid, and to and from the road of said company at Michigan [city], or Laporte as aforesaid, organized under such renewed or newly granted charter for rates and fare, which shall not exceed per mile the lowest rates charged to any other parties, on any portion, or the whole of the said Michigan Central Railroad, and shall draw the cars of said newly organized company on and over the road between Michigan city, or Laporte as aforesaid, and the Illinois line, with the engines of the said parties purchasing or owning said road, or their assigns, in such a manner as to accommodate such newly organized company in the transportation of its freight and passengers, allowing said company a reasonable compensation for the use of its cars, but charging freight as aforesaid.

SEC. 10. In case the Michigan Central Railroad Company, or other persons or party constructing said branch railroad, or for whom the same may be constructed, or their or either of their assigns, shall enter into any arrangements either with the Southern Michigan railroad company, or the Erie and Kalamazoo railroad company, or any other railroad company in Michigan for the formation of any connection therewith, except as provided in this act, whereby either freight or passengers to or from Toledo shall be carried on said branch road from Michigan City to the northern state line, and thereby open a communication between Toledo and Chicago to the detriment of the Buffalo and Mississippi railroad, until the same shall be completed through between those two points, it shall work an entire forfeiture of the said branch road, and all the rights, privileges, and franchises thereto, herein granted to the said Central railroad company, or other persons for whom or by whom the said branch road may be undertaken or constructed, or their assigns.

SEC. 11. The said board of commissioners created by this act shall hold their offices until said contract or contracts for said loans shall have been made, and thereafter they shall be elected annually by the stockholders, who shall become such in the western division of the Buffalo and Mississippi railroad company, upon the first Monday in January of each year, or upon such other day as shall be by said board appointed, and in case no election shall be had upon the day hereby appointed, the commissioners last elected or appointed shall hold their offices until a new election shall be had; said commissioners may be elected from stockholders living either within or out of the state, and shall have power to choose a president from among their number, and also to appoint a secretary and treasurer of said board, and a majority of said board shall be a quorum to transact all business, and they shall enter into contracts or agreements in the name of the Buffalo and Mississippi Railroad Company, by the board of commissioners for the western division of said road, and may use a corporate seal, which shall be the seal of the said board, or of the said company, but they shall exercise no control or have any thing in any way to do with or incumber that portion of said road lying east of Laporte, and the said board of commissioners shall be dissolved whenever the Buffalo and Mississippi railroad is completed through the entire line of its route.

SEC. 12. The present outstanding debt of the Buffalo and Mississippi railroad company shall, in case any loan of money shall be made for the construction of the western division of said road, be a charge upon the stock subscribed for said division, and upon said commissioners; and it shall be the duty of said commissioners to procure the same to be cancelled, paid, or otherwise discharged, and save the said company from any liability by reason thereof, and relieve it from all obligation to pay the same.

SEC. 13. The present directors shall, when this act is accepted, surrender up their stock to be cancelled, and any and every stockholder of stock subscribed previous to the first of January, 1848, may and shall have the right, upon request, to have his said stock cancelled entirely; and so far as the said stock shall be surrendered up and cancelled it shall be the same as if it had never been subscribed for, and the directors of said company shall cancel all such surrendered and all forfeited stock, and books shall from time to time be opened, and stock subscribed, in the same manner and to the same extent as if such cancelled stock had never been taken.

SEC. 14. This act shall take effect and be in force from and after the time when the same shall be accepted as a part of the charter of the Buffalo and Mississippi Railroad Company, by a resolution of the board of directors thereof, entered upon the records of said board in full, and from that time the said commissioners shall be fully vested with the powers herein conferred upon them, and from that time also the places of the present board of directors shall be vacated, and the acceptance of this act by them shall be taken as a resignation of their several offices as directors of said company, and

from that time until the said western division of said road shall be redeemed from said mortgage or other conveyance by way of security for said moneys loaned, or until the whole line of the Buffalo and Mississippi railroad shall be completed across the state; the directors of said company shall be elected by the stockholders of said company, whose stock shall have been subscribed in books opened, or to be opened therefor in counties along the line of said road east of Laporte, and said directors so to be elected, shall be residents of the said eastern counties excepting as by the charter of said company and the amendments thereto, they may be non-residents of the State of Indiana, and said part of said road lying east of Laporte shall be entirely under the control of the stockholders, whose stock shall have been so subscribed; but said directors and commissioners shall mutually report to each other all proceedings therein, expenditures, and the revenues of their respective divisions, and such other matters as may be proper whenever requested, but not oftener than once in each year; and after said western division shall be replaced in the possession of the directors of said company as provided in this act, then and from that time its affairs shall be controlled by the stockholders generally under the charter, and directors shall be elected by them from any part of the state or elsewhere, under the provisions of the charter and amendments thereto, in the same manner as if this act had never been passed.

SEC. 15. In case of the acceptance of this act as an amendment to the charter and the resignation of the present directors, Thomas S. Stanfield, and Joseph L. Jernegan, of the county of St. Joseph, and James H. Barnes, and Erastus W. H. Ellis, of the county of Elkhart, and Delavan Martin, and Drusus Nichols of the county of Lagrange, and Madison Marsh, of the county of Stuben, shall be, and they are hereby constituted a board of directors for the Buffalo and Mississippi Railroad Company, as the successors of the now existing board of directors, to hold their offices as such until their successors in office are duly elected according to the provisions of the charter and amendments, for the election of directors, with power to fill all vacancies in their board, and to organize the same, and to make all necessary orders, and to do all acts which may be made or done by the directors of said company, under the original charter or the amendments thereto, except as otherwise provided in this act, and to receive from the present directors all records or other books and papers and all stock, and other property or thing belonging to said company; the directors of said company shall have power to make all such necessary contracts with any railroad company or companies, either in Ohio or Illinois for the passage of cars or otherwise, as shall accommodate said Buffalo and Mississippi Railroad Company in the transportation of its freight and passengers, but they shall in no case incumber the said western division of said road, nor shall any debt created or contracted hereafter by the directors of the Buffalo and Mississippi Railroad Company, constitute any charge

or liability upon or against the western division of said road, or the stockholders thereof, until the said western division shall be restored to the possession of the directors of said road, under the provisions of this act: *Provided*, That if either of the above persons shall not at the time of the organization of said board, be a stockholder in said company, it shall vacate his said office as such director, which vacancy shall be filled as in other cases.

## CHAPTER CCCCXXVII.

An Act to prohibit the sale of spirituous liquors in the town of Rushville.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That it shall hereafter be unlawful for any person or persons to sell or barter any spirituous liquors within the corporation of the town of Rushville in Rush county, Indiana, except for mechanical and medicinal purposes.

SEC. 2. Any person or persons violating the provisions of this act, upon conviction thereof, on presentment or indictment, in any court of competent jurisdiction, shall be fined in any sum not less than two nor more than fifty dollars.

SEC. 3. All acts or parts of acts coming within the purview of this act be and the same are hereby repealed.

SEC. 4. This act shall be taken as a public act and be in force from and after its passage.

## CHAPTER CCCCXXVIII.

An Act to incorporate the Richmond and Hagerstown Turnpike Company.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That Robert Morrison, Benjamin Stratton, Walter Legg, John Martindale, J. W. Scott, Jonas Hatfield, sen., William Davis, William Baker, and Mark E. Reeves, and their successors in office, duly elected as hereinafter directed, are hereby constituted a body

politic and corporate, and by the name and style of "The President and Directors of the Richmond and Hagerstown Turnpike Company," shall be able and capable in law and equity, to sue and be sued, plead and be impleaded, defend and be defended against, answer and be answered unto, in all or any courts of competent jurisdiction; to make and use a common seal, and the same to change at pleasure; and shall be able and capable in law to make contracts and enforce the same, and to make and carry into execution and effect the provisions of this act, and the objects contemplated by the same, not inconsistent with the laws and constitution of this state.

SEC. 2. The capital stock of said company shall be seventy-five thousand dollars, divided into shares of fifty dollars each, and shall be applied to the making and construction of a turnpike road from Richmond, in the county of Wayne, through the town of Washington, to Hagerstown in said county.

SEC. 3. The persons in the first section of this act named, shall be the directors of said company until others are elected and qualified, as hereinafter directed; and such first named directors, or a majority of them, shall meet in the town of Washington, at such time as a majority of them agree upon; and at such meeting shall organize said corporation by electing one of their body president, a secretary, and a treasurer; and after such organization, any five of said board shall constitute a quorum for the transaction of business.

SEC. 4. The corporation shall have power to appoint agents, clerks, surveyors, engineers, superintendents, and all other officers proper and necessary to carry into effect this act; they shall keep a journal of their proceedings, in which shall be entered all by-laws and regulations, and all orders for the payment of such sums of money as may be allowed to their officers and all others in their employ. Their journal of proceedings shall, from time to time, be signed by the president. They may sit on their own adjournments, or on the call of the president, and when the president is absent, they may appoint a president *pro tempore*. They shall fill all vacancies which shall occur in their body; and may require their officers to give bond and security for the faithful performance of their duties.

SEC. 5. The corporation may cause books to be opened for the subscription of stock of said company at such times and places as they may choose, due notice thereof being given in one or more of the newspapers of said county; and said company may receive subscription of stock in real estate, or labor, or in any other way, as to them may seem proper; but all subscriptions shall be paid as follows: twenty per centum every six months until all is paid. Such books of subscription shall contain the following entry, to be signed by subscribers: "We, the undersigned, promise to pay fifty dollars for each share of stock set opposite our names, in the way and manner as directed by the act, entitled 'an act to incorporate

the Richmond and Hagerstown Turnpike Company.' Witness our hands this — day — 18."

SEC. 6. It shall be lawful for all persons of lawful age, or for the agent of any corporation, or the board of commissioners of the county of Wayne, to subscribe for any amount of stock in said company; and said company shall have power, upon their own credit, to borrow money upon such terms as may be agreed upon by the parties.

SEC. 7. When real estate is subscribed as stock in said company, a deed therefor may be made by the person subscribing to said company; and said corporation may dispose of such real estate for the purposes contemplated by this act, at a price not less than that at which the same was received by the company.

SEC. 8. As soon as one hundred shares are subscribed for, and twenty per centum thereon paid, it shall be the duty of the board of directors to give three weeks' notice thereof in some newspaper in said county, and in such notice appoint a time and place for the stockholders to meet and elect nine directors, who shall be stockholders and citizens of this state, which election shall be by ballot, and conducted under the supervision of one inspector and two judges, appointed by the stockholders present, and the persons having the highest number of votes shall be declared duly elected; and in all elections each share shall entitle the holder to one vote, such vote to be given by the person holding the same, or by the husband, father, mother, guardian, trustee, executor, administrator, proxy, or agent of any such shareholders, or by the agent or proxy of any corporation.

SEC. 9. The directors elected as above, and those elected at all subsequent elections, shall elect one of their number president, and the president and directors thus elected shall continue in office until their successors are elected and qualified; and elections for directors shall be thereafter annually held on the second Monday of September, or in case of failure, then to elect at such subsequent time as the board of directors shall appoint.

SEC. 10. Certificates of stock shall be given to stockholders, which shall be evidence of stock held; they shall be signed by the president, and countersigned by the secretary. The stock shall be transferable on the books of the corporation, personally or by agent, attorney in fact, executor, administrator, trustee, or guardian, but such stock shall at all times be held by the company for any dues from the holders thereof to said company, or for sums that may thereafter become due said company on contracts made prior to such transfer.

SEC. 11. The six months within which the second installment of stock shall be paid on said stock shall commence to run from the time of the first election of directors for said company, and if any stockholder shall neglect or refuse to pay any such installment within ten days after the time when the same was due, the corporation may bring suit therefor in any court of competent jurisdiction.

tion, and recover the amount due, with ten per centum damages thereon; and if the same cannot be made on execution, or the delinquent is without the state, then said corporation may, by an order entered on their books, declare the stock for which such instalment was due to be forfeited, and whatsoever amount shall have been paid thereon; and no delinquent shall have any right to vote at any election for directors, or to receive any dividend on his stock.

SEC. 12. Said company shall have power to survey and locate a turnpike road from the city of Richmond, through the town of Washington, to Hagerstown, as aforesaid, and if thought proper said company may locate the same on the ground on which the state road now runs, or they may diverge from said state road wherever it may be deemed proper and for the interest of said company.

SEC. 13. For the purpose of making such location, and for the construction of said road, it shall be lawful for said company, by their agents or persons in their employ, to enter upon any lands to make surveys and estimates, and to take from the lands occupied by said road any stone, gravel, timber, or other materials necessary to construct said road, and the bridges connected therewith, and should sufficient materials be not so obtained, then it shall be lawful for said company to obtain the same by gift from, or contract with, the persons having the same to sell or bestow.

SEC. 14. If any person or persons owning the land upon which said road is located, where the same shall diverge from the state road, shall refuse to relinquish the same for the use of said road, and no satisfactory contract can be made by said company with such owner therefor, it shall be lawful for said company to give notice to some justice of the peace of the county, and said justice shall thereupon summon the owner of said land, if a resident of the county, to appear before him on a day to be named therein, and within ten days thereafter; and if the parties cannot then agree, said justice shall issue a venire for summoning before him a jury of twelve disinterested men of the neighborhood, to be selected by the justice, or such less number as the parties may agree upon; and such jury, after having taken an oath or affirmation faithfully and impartially to assess the damages, if any, shall view the lands upon which such damages are claimed, and shall determine the same, duly considering the advantages and disadvantages of said road to said owner, and shall make report thereof to said justice, whereupon said justice shall enter judgment thereon, unless an appeal shall be taken, or good cause shown why a new assessment shall be granted, unless the damages assessed shall exceed one hundred dollars; and in case the damages shall exceed one hundred dollars, the justice shall file a transcript of his proceedings in the clerk's office of the circuit court of the county of Wayne, within ten days after such report shall have been made to him, and judgment shall be had thereon in the same manner as on appeals; and in case either

party can show good cause, a re-assessment may be ordered by the justice or the circuit court, as the case may require.

SEC. 15. If the owner is a minor, insane person, or shall reside out of the county where such land may be, such justice shall cause three notices to be put up in three public places within the township where such lands are situated, of the time and place of appointing appraisers, and if no person appears he may adjourn the trial for two weeks, at the end of which time he shall appoint a guardian *ad litem* to act for such minor or insane person as the case may require, unless some regular guardian shall appear to defend, and he shall then proceed as in other cases; and in all cases cost shall be awarded for or against either party, at the discretion of the jury.

SEC. 16. In case said company shall require for the use of said road any stone, gravel, timber, or other material from the land of any person adjoining said road or near thereto, and said company cannot contract with the owner for the same, said company may proceed in like manner to have the value of such materials assessed, as is above prescribed for assessing the value of lands; and in every such case of land or materials, said company may take possession of and use the same immediately after tendering the sum assessed therefor, if any, notwithstanding any appeal that may be pending.

SEC. 17. The company shall cause said road to be opened not more than one hundred feet wide, at least twenty feet of which shall be thrown up in a curve, with proper side ditches and drains, in such manner as shall secure a firm, substantial and even road, with sufficient coating of gravel or broken stone.

SEC. 18. If said road after its completion, or any part thereof, shall be suffered to be out of repair so as to be impassable for the space of one year, unless when the same is repairing, this charter shall be considered as forfeited; and if said company shall suffer said road to be out of repair to the hindrance or delay of travellers for an unreasonable length of time, they shall have no right to collect tolls thereon until the same is repaired.

SEC. 19. Whenever five miles of said road shall be completed, a gate may be erected thereon; but no gate shall be within five miles of any other on the same road, belonging to this company; and tolls may be charged at such gates for every ten miles of travel thereon, and in proportion of any greater or less distance, as follows: for every four wheel coach, carriage, wagon, or other vehicle, drawn by one horse or other animal, not exceeding fifteen cents; for every horse or other animal in addition, five cents; for every cart or other two wheel carriage drawn by one horse, ten cents; for every horse or other animal in addition, five cents; for every sled or sleigh, drawn by one horse or other animal, five cents; for every horse or other animal in addition, five cents; for every horse and rider, five cents; for every horse, mule or ass, six months old and upwards, led or driven, not exceeding three cents; for every head of neat cattle, six months old and upwards, not exceeding two cents;

and for each hog or sheep, not exceeding one cent; *Provided*, That all persons going to or returning from public worship, and all funeral processions, shall pass free of toll.

SEC. 20. If any person or persons using any part of said road, shall, with intent or view to defraud said company, pass through any private gate, or bars, or along any other ground near said road, to avoid any toll-gate, or shall practice any fraudulent means to lessen or avoid the payment of any such toll, each and every person concerned in such fraudulent practice, shall for every such offence forfeit and pay the said company the sum of five dollars, which shall be recovered without any stay of execution, in an action of debt, in the name of said corporation, before any justice of the peace; *Provided*, That nothing herein contained shall prevent persons residing on said road from passing thereon between gates about their premises for common and ordinary business.

SEC. 21. If said company shall fail, for thirty days in succession, to keep said road in repair, on complaint thereof made to any justice of the peace of said county of Wayne, it shall be his duty to summon three disinterested freeholders to examine the same, and shall give notice to the nearest toll-gatherer of the time when freeholders will meet for said purpose; and said freeholders, after having taken an oath or affirmation to act impartially, shall proceed in the examination, and if they find the same out of repair to the hindrance, delay, or danger of travelers, they shall certify the same to said justice, whose duty it shall be to transmit a copy of such certificate to the nearest toll-gatherer on said road, and from the time of receiving the same it shall not be lawful for said company to receive any toll on said road until the same shall have been put in complete repair; and any toll-gatherer offending in this particular, may be sued in an action of debt before any justice of said county, and the sum of five dollars recovered by any person aggrieved.

SEC. 22. Said company shall put a post or stone at the end of every mile, with the number of miles fairly painted or cut thereon; and also, in a conspicuous place near each toll-gate, shall be placed a board with the rates of toll fairly painted thereon.

SEC. 23. This act shall be in force from and after its passage.

## CHAPTER CCCCXXIX.

An Act for the relief of certain persons therein named.

[APPROVED FEBRUARY 16, 1848.]

WHEREAS, It is represented to the General Assembly of the State of Indiana, that in the year eighteen hundred and forty-six, Delavan Martin and Alphonso Martin commenced the erection of a mill dam upon the waters of Pigeon river, upon the south part of the south part of the south-west quarter of section number thirty, in township number thirty-eight, north of range number ten east, in Lagrange county and State of Indiana:

AND, WHEREAS, Said Delavan Martin and Alphonso Martin sued and prosecuted to a final adjudication, in the Lagrange circuit court, a writ of *ad quod damnum*; by which adjudication they were authorized to erect said dam, in the manner, and to the extent, and upon the terms in said adjudication set forth:

AND, WHEREAS, In the month of November, eighteen hundred and forty-six, and before the completion of said dam, said Delavan Martin and Alphonso Martin sold and conveyed all their right and title in said premises, and in said dam, together with the privileges by said adjudication granted, to one William Martin, who completed said dam:

AND, WHEREAS, Said dam is higher than is allowed by said adjudication, and the said William, Delavan, and Alphonso Martin have been harassed with suits at law by reason thereof, as is alleged; which suits at law are now pending in the Lagrange circuit court;

AND, WHEREAS, The legislature of Indiana, by an act approved January twenty-seventh, eighteen hundred forty-seven, authorized and empowered the said William Martin to sue out of the proper court a second writ of *ad quod damnum* against any and all persons interested in respect of the erection of said dam:

AND, WHEREAS, Said second writ of *ad quod damnum* was immediately, after the passage of said act, sued out of the Lagrange circuit court, but owing to the pressure and amount of business in said court, it has been impossible to prosecute the said suit to a final adjudication: Therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That all suits at law in respect to the erection of said dam, or the flowing of lands by reason thereof, or that are in any way connected with, or have any reference to, the erection of said dam, and which now, or may hereafter be pending in the Lagrange circuit court, or in any other court in said county, be, and the same are hereby, suspended; and no action shall be had thereon until said writ of *ad quod damnum* shall be prosecuted to a final adjudica-

tion in said court: *Provided, however, That said writ of ad quod damnum shall be prosecuted to a final adjudication within eighteen months from this date.*

SEC. 2. This act to be in force from and after its passage, and shall be deemed a public act.

## CHAPTER CCCCXXX.

An Act for the relief of John Kearny, and to authorize him to sell certain real estate.

[APPROVED FEBRUARY 11, 1848.]

WHEREAS, It is represented to this General Assembly that William Kearney, of Louisville, Kentucky, is in an unsound state of mind, and is the owner of about one hundred and sixty acres of land in Vigo county in this state and that it is absolutely necessary that the said land should be sold for the support of himself and family: Therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That John Kearney, the brother of said William, be, and he is hereby, authorized to sell and convey said real estate, so as to pass the title thereof effectually to the purchaser thereof: Provided, He shall first file in the probate court of Vigo county a copy of his letters of guardianship of the person or estate of said William, issued by some court having jurisdiction thereof; and also a copy of a bond in at least double the appraised value of said land, conditioned for the faithful discharge of his duties as such guardian; which bond shall be approved by the court issuing such letters of guardianship, or the said probate court of Vigo county: And provided, further, That said land shall not be sold for less than two-thirds of its cash value, to be ascertained by three disinterested freeholders in the neighborhood of said land, who shall be sworn to appraise the same at true cash value.*

SEC. 2. This act shall be a public act, and shall be in force from and after its passage.

## CHAPTER CCCCXXXI.

An Act to incorporate the Steuben Medical Society, of Steuben County, Indiana.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That M. T. Morse, E. W. Marsh, and Madison Marsh, and their associates, together with such as may hereafter be associated with them, be, and they are hereby created a body corporate and politic, with succession for thirty years, by the name and style of "the Steuben Medical Society of Steuben County, Indiana," and by that name may sue and be sued, plead and be impleaded, in all courts of law and equity, and may have a common seal, and the same to alter at pleasure; shall be capable of holding personal or real estate, by gift, grant, or devise; may sell, dispose of, and convey the same; Provided, The value thereof shall not exceed twenty thousand dollars, and the same shall be devoted exclusively to the object of promoting and elevating the science of medicine and its collateral branches: Provided, That no part of said funds, or income thereof, shall at any time directly or indirectly be employed in banking; nor shall said society issue certificates of deposit, drafts, or any other evidence of indebtedness calculated or intended to circulate as currency, under the penalty of an absolute forfeiture of this act.*

SEC. 2. That they shall have power to form and ratify a constitution and by-laws, for the government of said corporation, the management and regulation of its fiscal concerns and admission of members, and appointment of its officers, together with such powers as are necessary and proper for the efficient direction and management of its concerns.

SEC. 3. The incorporators and such other persons as may hereafter be associated with them, shall be deemed and held individually liable for all the debts of the society.

SEC. 4. Any future legislature may alter, amend, or repeal this act: *Provided, Such alteration, amendment, or repeal, shall in no wise affect the title to any property conveyed or acquired under its provisions.*

SEC. 5. That at any time after the passage of this act, when a sufficient number of persons have associated themselves together under its provisions, after having given ten days' notice of the time and place of holding the first meeting, they may proceed to organize by electing such number of directors and other officers as may be deemed necessary for the management of said society; and such officers, when so chosen, shall hold their respective offices for one year and until their successors are elected and qualified.

SEC. 6. This act to take effect and be in force from and after its passage.

## CHAPTER CCCCXXXII.

An Act to authorize the erection of a certain bridge in Martin county.

[APPROVED FEBRUARY 12, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the sum of three hundred and fifty dollars be appropriated for the erection of a bridge over the bayou on the Vincennes and New Albany McAdamized road, near the town of Hindostan in the county of Martin; *Provided,* That the said sum hereby appropriated shall be paid out of that portion of the three per cent. fund, that the said county is now, or hereafter may be entitled to under existing or future appropriations of such fund to said county.

SEC. 2. That it shall be lawful for the citizens of said county, or other persons to subscribe said sum of three hundred and fifty dollars, or any part thereof for the erection of said bridge, and in case said subscription or subscriptions shall be made, the said citizens or persons so subscribing the same, shall be entitled to have the several sums subscribed by them, refunded out of the first monies of such three per cent. fund, by the proper officer of such county having charge of such fund.

SEC. 3. It shall be the duty of the superintendent of said road to receive from the proper officer, the said sum hereby appropriated or authorized to be subscribed, and expend the same, for the erection of said bridge; and in procuring the erection of said bridge, the said superintendent shall in all cases be governed by the provisions of the several acts now in force, regulating his duties, so far as the same are applicable.

SEC. 4. It shall be the duty of the officer having the custody of the three per cent. fund of said county, to pay to the said superintendent out of the first monies belonging to said fund that may come to his hands, the said sum of three hundred and fifty dollars.

SEC. 5. This act to be in force from and after its passage.

## CHAPTER CCCCXXXIII.

An Act in relation to certain school lands in Floyd county.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the trustees of congressional township number three, range six east, in the county of Floyd, be, and are hereby authorized to reappraise all the unsold and forfeited school lands belonging to said township, and return said appraisement to the auditor of said county, and said auditor and the school commissioner of said county be, and they are hereby authorized to sell said lands or any part of them, at such time and upon such terms and conditions as the trustees of said township shall direct; *Provided, however,* That no part of said lands shall be sold for less than two thirds their appraised value.

SEC. 2. That said auditor and school commissioner in making the sales contemplated in the first section of this act, and the necessary conveyances thereafter, shall in all things be governed by the law now in force regulating the sale and conveyance of forfeited lands except otherwise provided in this act.

SEC. 3. This act to be a public act, and be in force from and after its passage.

## CHAPTER CCCCXXXIV.

An Act to legalize the acts of the auditor of Steuben county for the year A. D. 1847.

[APPROVED FEBRUARY 11, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the acts of the auditor of Steuben county, Indiana, for the year eighteen hundred and forty seven, in signing by deputy the certificates of delinquencies, the notice of sale of the delinquent lands, and the sale of said lands, is hereby legalized.

SEC. 2. This act to take effect and be in force from and after its passage.

## CHAPTER CCCCXXXV.

An Act to revive and amend an act entitled "An act to incorporate the Crawfordsville and Wabash Railroad Company," approved January 19th, 1846.

[APPROVED FEBRUARY 15, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the act entitled "An act to incorporate the Crawfordsville and Wabash Railroad Company," approved January 19th, 1846, be and the same is hereby revived and continued in full force.

SEC. 2. The time for commencing the construction of said railroad is hereby extended for the time of three years from the approval of this act, and the completion of the same is hereby extended for the term of seven years from the same date.

SEC. 3. That the corporation shall have power to locate and construct the same so as to unite with any other railroad upon such terms and conditions as may from time to time be mutually agreed to by such company, any thing in the 12th section of the act, to which this is an amendment, to the contrary notwithstanding.

SEC. 4. That in all cases where any person through whose land the road may run, shall refuse to relinquish the right of way, or where a contract between the parties cannot be made, it shall be lawful for the corporation to give notice to some justice of the peace in the county where the application may occur, that such facts do exist, and such justice shall thereupon summon the owner of such land to appear before him on a particular day within ten days thereafter, and shall appoint twelve disinterested persons of the neighborhood, who, after taking an oath faithfully and impartially to assess the damages, if any, view the land and materials, and after having taken into consideration the advantages as well as the disadvantages the road may be to the same, and shall report thereon, whether such person is entitled to damages or not, and if so, how much, and shall file such return with such justice, whereupon such justice shall enter judgment thereon; *Provided*, That either party may, at any stage of the proceedings, appeal to the circuit court of the proper county as in other cases, and such court shall appoint viewers as above directed, who may report at that or the next succeeding term in the discretion of the court, and the judgment of the circuit court shall be final.

SEC. 5. And in all cases where the owner or owners of such land or materials shall be minors, insane persons, or reside out of the county where such lands may be, such justice shall cause three notices of the application made and of the day fixed for the appointment of viewers, to be posted up in three of the most public places in the county, and if no person shall attend on the day named in said notice, said justice shall adjourn the same until that day two

weeks, at which time he shall proceed as if such person or persons had been duly notified to attend, and on such judgment being rendered, and the corporation complying therewith by the payment of damages or costs awarded against them, the corporation shall be seized of the land or materials. Costs shall be allowed or awarded against either party at the discretion of the justice.

SEC. 6. That the 23d section of the act to which this is an amendment, be and the same is hereby repealed.

SEC. 4. This act shall take effect and be in force from and after its passage, and shall be deemed and taken to be a public act.

## CHAPTER CCCCXXXVI.

An Act to authorize Roderick M. Siler, to relinquish certain school lands.

[APPROVED FEBRUARY 14, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That Roderick M. Siler, of Morgan county, who purchased of the school commissioner of said county, the northwest quarter of section sixteen in township No. 13 north, of range No. 2 west, in four separate lots numbered 3, 4, 5 and 6, it being school lands belonging to said township, and who is unable to pay for the whole of said quarter section, be, and he is hereby permitted to relinquish to said congressional township, lots No. 5 and 6 of said quarter section to be disposed of by the auditor and school commissioner of said county as other unsold school lands, and that all payments made by said Roderick M. Siler, on said quarter section be applied toward the payment of the purchase money of lots No. 3 and 4 of said quarter section, and the interest on such purchase money.

SEC. 2. This act to take effect and be in force from and after its passage.

## CHAPTER CCCCXXXVII.

An Act to incorporate the Mooresville Branch Railroad Company.

[APPROVED FEBRUARY 15, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That James S. Kelly, John H. Bray, Barclay Burrows, William Hadly, William T. Worthington, John V. Swearengen, Cyrus Whetzel, John W. Thompson, William McCracken, Charles Hawk, and Allen Hicklin, of the county of Morgan, and State of Indiana, and their successors in office, duly elected as hereinafter provided, are hereby constituted a body corporate and politic, by the name of "The President and Directors of the Mooresville Branch Railroad Company," and by such name shall be capable to sue and be sued, plead and be impleaded, answer and be answered unto, either in law or equity, in any court of competent jurisdiction within this state, and shall have power to make and use a common seal, and the same to alter at pleasure, and to make contracts and enforce the same, and to establish and put in force such by-laws, rules, and regulations, as may be necessary to carry into effect the provisions of this act not inconsistent with the constitution and laws of this state, and of the United States.

SEC. 2. The corporation shall have power to appoint agents, clerks, treasurers, surveyors, engineers, superintendents, artists, and all other officers and persons necessary to carry into effect the objects of this act; they shall keep a journal of their proceedings, in which shall be entered all the by-laws, rules and regulations, and all orders for the payment of such allowances as may be made to their officers and all others in their employ; which journal shall from time to time be read by the board, and if found to be correct, signed by the president. They may sit on their own adjournments, or on the call of the president, when the president is absent, they may appoint a president *pro tempore*; they shall fill all vacancies that may happen in their own body.

SEC. 3. The directors named in this act, or a majority of them, may meet at such time and place as they may agree upon, and organize said corporation by the election of one of their body as president and after such organization, any five of said board shall constitute a quorum for the transaction of business.

SEC. 4. The corporation shall cause books to be opened for subscription to the capital stock of the Mooresville branch railroad, at such time and at such place or places as they may choose, due notice being given in one or more public newspapers or otherwise; and the books shall be kept open for any such space of time, at such place or places as the corporation shall choose, and may be reopened at any time, and may then be kept open as long as the corporation may direct. The corporation may require such sums of

money to be paid at the time of subscribing, not exceeding five dollars per share, as they may think proper; but such requisition shall be made known by being inserted in the notice for opening the books.

SEC. 5. The capital stock of said corporation shall be subscriptions of money, real estate, labor, or necessary and proper materials for the construction of said road, in shares of twenty-five dollars each, sufficient in amount to complete and accomplish the objects herein contemplated; and all subscriptions that may be made to the capital stock of said company in labor or materials, shall be paid to and received by the company at their cash value, to be ascertained by three appraisers, to be appointed, one by the subscriber, and two by the company.

SEC. 6. It shall be lawful for all persons of lawful age, or for any corporate body in the United States, by their authorized agent or officers to subscribe for any amount of the capital stock of said railroad company; and the said corporation may by their officers or authorized agent or agents offer for sale in any of the states of the United States any amount of stock, upon such terms and conditions as may be thought advisable; and said corporation shall have power to borrow money, on their own credit, or by pledging the real estate subscribed as stock, or both, upon such terms as may be agreed upon by the parties.

SEC. 7. As soon as twenty thousand dollars are subscribed for, and five dollars paid on each share, it shall be the duty of the corporation to give twenty days' public notice thereof in one or more newspapers and otherwise, and in such notice to appoint a time and place for the stockholders to meet and elect seven directors, who shall be stockholders, and said election shall be conducted by two judges appointed by the stockholders present; and the persons having a plurality of votes given and counted in public, shall be declared duly elected. No share shall confer the right to vote at any election unless the same shall have been held one month previous to the election; in all elections one share shall entitle the holder to one vote; and votes may be given by the person owning the same, or by one of any partners, or by the husband, father, mother, administrator, or executor, trustee or guardian, or by the authorized agent of any corporation, state, or of the United States, or any person having a right to vote may vote by written proxy.

SEC. 8. It shall be the duty of the directors elected as above, and those elected at all subsequent elections, to meet as soon thereafter as they conveniently can, and elect one of their own body president; the president and directors elected shall continue in office until the next annual election, and until their successors are elected and qualified or organized.

SEC. 9. All elections after the first shall be held on the first Monday in January annually, under the direction of three stockholders not directors at the time, to be appointed by the board at a previous meeting, or by the stockholders present at the time of holding such

election; and public notice shall be given of said election in at least one newspaper and otherwise: *Provided*, That if from any cause whatever there should be no election held on the day appointed by this act, or by the directors for the first election, it shall be lawful to hold the election on any other day.

SEC. 10. The said corporation shall have power to call for such portions of the stock subscribed for (not exceeding twenty per centum every twelve months) as they may think proper to be paid at such time and place as they may designate, by giving sixty days' notice thereof in some newspaper near the said road, or by giving to the said stockholders written notice, in which notice shall be specified the amount called for and demanded on each share, and the time and place of payment; and any stockholder who shall fail, neglect, or refuse to pay the same so called for on his, her, or their stock, within ten days after the time named for such payment in said notice, the corporation may bring suit against such delinquent for the amount due and called for in any court having jurisdiction, and recover the amount so called for and unpaid, together with interest from the time of such failure, neglect, or refusal; and the evidence to establish such claim of the corporation shall be the order in the journal of the proceedings of said corporation calling for the installment on the stock, and proof that the notice above specified has been given; and if the amount so recovered [of] any such delinquent cannot be made on execution, or if any such delinquent is out of the state, then the corporation may, by an order on their journal of proceedings, declare such stock and all that may before have been paid thereon forfeited to said corporation; and no delinquent, after the failure, neglect, or refusal aforesaid, and before the stock should be declared forfeited to the corporation, shall have the right to vote for directors or receive any dividends on his, her, or their stock until the corporation is fully paid and satisfied; and should any such delinquent or delinquents be a director or directors in said corporation, his or their offices of director or directors, may be, by the balance of said board, declared vacated, and they may proceed to fill, from the qualified stockholders in said corporation, such vacancy or vacancies in such board of directors; and the person or persons so appointed shall hold their office or offices until the next annual election, and until their successors are elected and qualified; the corporation shall require of all officers and others in their employ, bonds, with such security as they may think proper, for the faithful performance of their respective duties or undertakings.

SEC. 11. Certificates of stock shall be given to the stockholders, which shall be evidence of the stock held; such certificates shall be signed by the president and countersigned by the clerk of said company. The stock shall be transferred on the books of the corporation only by the person or persons owning the same in person, or by their legally constituted agent or agents, attorney or attorneys, or by their legal representatives, trustees, or guardian; and such stock

shall be at all times holden by the corporation for any dues from the owners thereof to the corporation, or for any sums to become due, on any contract made with said corporation prior to such transfer.

SEC. 12. It shall be the duty of the corporation to cause a full statement of the affairs of the company to be made and exhibited to the stockholders at any annual election, or at any other general meeting of the stockholders.

SEC. 13. The corporation, by their agents, shall have full power from time to time to examine, survey, locate, and construct a railroad of a single or double track, commencing at the town of Mooresville, in Morgan county, and State of Indiana, and running on the best ground for the interest of the company and the public convenience, so as to connect either with the Madison and Indianapolis railroad at Indianapolis or at any point between Indianapolis and Edinburgh, or with the Terre Haute and Richmond railroad at any point west of Indianapolis, at the option of the company.

SEC. 14. And for the purpose of making such examination and location, it shall be lawful for the corporation, by their agents and persons in their employ, to enter upon any lands to make surveys and estimates, and for the purpose of searching for stone, gravel, wood, or other materials necessary for the construction of said road; but no stone, gravel, wood, or other material necessary for the construction of said road shall be taken away from any land without the consent of the owner thereof, until the rate of compensation shall be ascertained and paid.

SEC. 15. It shall be lawful for the corporation, either before or after the location of any section of the road, to obtain from the person or persons through whose land the same may pass a relinquishment of so much of the land as may be necessary for the construction or location of said road, as also the stone, gravel, timber, and other materials; and it shall be lawful for said corporation to receive, by donations, gifts, grants, or bequests, land, labor, money, property, stone, gravel, or other materials for the benefit of said corporation, and all such contracts, relinquishments, donations, gifts, grants, and bequests, made and entered into in writing by any person or persons capable in law to contract, made in consideration of said location, for the benefit of said corporation, shall be binding and obligatory, and the corporation may have their action at law in any court of competent jurisdiction to compel the same; *Provided*, That all such gifts, grants, bequests, contracts, or relinquishments shall be made in writing, and signed by the party making the same either in person or by an authorized agent.

SEC. 16. That in all cases where any person through whose land the road may run shall refuse to relinquish the same, or when a contract between the parties cannot be made, it shall be lawful for the corporation to give notice to some justice of the peace in the county where the difficulty may occur that such facts do exist, and such justice of the peace shall thereupon summon the owner

of such land to appear before him on a particular day within ten days thereafter, and shall appoint twelve disinterested persons of the neighborhood, who shall, after taking an oath faithfully and impartially to assess the damages, if any, view the land, and after having taken into consideration the advantages as well as the disadvantages the road may be to the same, and shall report thereon whether such person is entitled to damages or not, and if so, how much, and shall file such return with such justice, whereupon such justice shall enter judgment thereon, unless for good cause there shown; and in case either party should show sufficient cause why judgment should not be entered, the justice may grant a review of the premises, either with or without costs; *Provided*, That either party may, at any stage of the proceedings, appeal to the circuit court of the proper county as in other cases, and such court shall appoint reviewers as above directed, who may report at that or succeeding terms, in the discretion of the court, and the judgment of the circuit court shall be final; *Provided*, That the advantages of the road shall not be taken into consideration in assessing damages for materials.

SEC. 17. And in all cases where the owner or owners of such land or materials shall be minors, insane persons, or reside out of the county where such land may be, such justice shall cause three notices of the applications made, and of the day fixed for the appointment of viewers, to be posted up in three of the most public places of the county; and if no person shall attend on the day named in said notice; and said justice shall adjourn the same until two weeks from that day, at which time he shall proceed as if such person or persons had been duly notified to attend, and on such judgment being rendered, and the corporation complying therewith, by the payment of costs or damages awarded against them, the corporation shall be seized of the land or materials; costs shall be allowed or awarded against either party, at the discretion of the justice.

SEC. 18. That when such corporation shall have procured a right of way, as hereinbefore provided, they shall have the sole use and occupation of the same, for the purposes herein provided for; and no person, body corporate or politic shall, in any way, interfere therewith, molest, disturb, or injure any of the rights or privileges hereby granted, or that would be calculated to detract from, or affect the profits of said corporation.

SEC. 19. That when the road is located, it shall be the duty of the corporation to cause a plot of the same to be deposited in the office of the secretary of state; and from and after that time it shall not be lawful for the said corporation to alter or change any part of the said location, unless said corporation pay the owner or owners of lands on such changed route the amount of damages they may sustain by said re-location.

SEC. 20. The corporation shall commence the construction of said road any time within five years after the opening of the books

for subscriptions, and shall complete the same within ten years from its commencement; *Provided*, That if the road be not completed within the time aforesaid, the General Assembly shall, for good cause shown, give further time for its construction.

SEC. 21. That it shall be lawful for said corporation to place or prescribe the kind of carriages that may be used on said road, whether propelled by steam or other power, for the transportation of passengers, for all kinds of products, or freight of any kind; and for this purpose the corporation may construct said road with such turns, gates, bridges, aqueducts, culverts, toll and warehouses, as may be considered necessary for the interest of the company and convenience of the public; and the corporation may charge tolls and freights on such part of the road as may be in a sufficient state for travel, although the whole be not finished; and they may charge for travel and transportation on the same, when it is graded and bridged, although the rails may not be laid so as to admit carriages thereon.

SEC. 22. The corporation may charge and receive such tolls and freights for the transportation of persons or freight of any kind on said road, or any part thereof, as shall be for the interest of said company, and to charge, lower, or raise, at pleasure; *Provided*, That the rates established from time to time shall be posted in some conspicuous place or places on said road.

SEC. 23. Any person who shall wilfully, mischievously, or maliciously destroy or injure any of the cars, machinery, furniture, apparatus, or other property or thing, belonging or appertaining to said rail road, or shall wilfully, mischievously, or maliciously place any obstruction on said rail road shall, on conviction thereof by presentment, be fined in any sum not exceeding five hundred dollars; and shall, moreover, be liable in an action on the case, to any person or persons, body politic or corporate, for any and all injuries to persons or property occasioned thereby.

SEC. 24. The said corporation shall cause to be kept a fair account of the making and repairing of said road, and every section thereof, with all incidental expenses, and shall also keep a fair account of any and all moneys received from and for the transportation of freight, mails, or other property, or passengers on said road; and the books of said corporation shall always be kept open for the inspection of stockholders, and creditors of said corporation.

SEC. 25. The corporation shall, in no case, directly or indirectly, engage in any kind of trade, or deal in merchandize, other than such as shall be necessary to carry into effect the objects contemplated by this act; nor shall said corporation, under any pretence whatever, enter into any banking business, for the purpose of receiving deposits, or issuing bills of credit or scrip, or bills or receipts of any description, to pass as a circulating medium.

SEC. 26. This act shall take effect and be in force from and after its passage, and shall be deemed and taken to be a public act.

## CHAPTER CCCCXXXVIII.

An Act to incorporate the Fair View Academy in Rush county.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That John M. Shawhan, G. B. Rush, William H. Beck, John V. Lindsey, George Campbell, Garrett Wykoff, David H. Drummond, Ephraim Jeffrey, and James Hannah, be and [they] are hereby constituted a body corporate and politic, under the corporate name and style of President and Trustees of Fair View Academy, and by such corporate name, may sue and be sued, plead and be impleaded, in any court of law or equity in this state.

SEC. 2. The persons named in the foregoing section, or a majority of them, shall meet in the town of Fair View in the county of Rush, on some day between the first day of March and the first day of April, 1848, and organize by electing one of their body president and one secretary; a record of such meeting shall be kept by the secretary, in which shall be entered a full statement of the proceedings of said meeting.

SEC. 3. After said meeting and election of a president and secretary, said corporation shall have the power to purchase or receive donation of land not exceeding in value five thousand dollars, on which to build an institution of learning, to be known as the "Fair View Academy," to be located on the south end of William M. Shawhan's land in Rush county, near the town of Fair View.

SEC. 4. Said trustees shall have power to open books for the purpose of building said institution of learning, as also to raise funds amply sufficient to pay teacher or teachers that may be employed, from time to time, in said institution, and said trustees and their successors in office shall have the power to confer degrees, establish professorships, and all acts whatsoever, not inconsistent with the laws of this state, to make said institution equal with the highest universities of literature in the state.

SEC. 5. The trustees, or a majority of them, may, at any meeting, sell and convey any real estate given or purchased by them for the purpose of aiding in building or endowing said academy, which conveyance shall be signed by the president and attested by the secretary, and [when] so executed, shall be valid in the courts of law and equity in this state.

SEC. 6. The trustees hereby constituted shall hold their office for three years from the date of their organization and until their successors are chosen and qualified; and at the expiration of the said three years, new trustees, four in number only, shall be chosen by the stockholders, each one being entitled to a vote or votes, the time, place, and manner of electing shall be determined by the by-laws of the institution. In electing said trustees there shall not at [any] time be more than two trustees elected of any one religious per-

suation, sect, or denomination. Said trustees shall hold their office for the term of ten years.

SEC. 7. Said trustees, or a majority of them, shall have power to pass all needful by-laws for the regulation of their officers, alter and amend them at their pleasure, and shall have all power necessary to carry out the object of the academy.

SEC. 8. This act shall be deemed a public act and shall be liberally construed by the courts of said state, and shall be in force from and after its passage and publication in the Indiana Journal and State Sentinel.

## CHAPTER CCCCXXXIX.

An Act to authorize the improvement of Tanner's Creek in Dearborn County.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That it shall be lawful for the city of Lawrenceburgh to build on Tanner's Creek in the county of Dearborn, one or more dams and locks for the improvement of the navigation of the same from the Ohio river to said city and above the same as far as may be deemed expedient; and also to make a side cut from said creek to or through said city, and upon such creek or side cut erect and establish wharves, and docks, and such other improvements as may be deemed necessary for navigation and commerce, and the building and repair of boats and other vessels.

SEC. 2. When any such improvement is made, it shall be lawful for the said city to charge and receive such reasonable tolls and rents for the use of the same or of any part thereof, or of any lock, dock, or boat yard established thereon, as said city shall establish.

SEC. 3. Should it be deemed proper by said city to unite the assistance of private capital for the construction of said improvement, it shall be lawful for said city to authorize the subscription to the same by individuals, of any sums that may be agreed upon, and to issue certificates therefor, which certificates shall entitle the holders thereof to a dividend of the profits of said improvement in proportion to the sum expended bears to the amount so certified, and all such other benefits arising therefrom as said city shall allow and agree upon.

SEC. 4. That the business connected with said improvement shall be managed and constructed by the established authorities of said city,—shall be considered as the property of said city, accord-

ing as said city shall by ordinances or by law prescribe; *Provided, however,* That if individual subscriptions shall be obtained to one-third of the sum necessary to complete said work, then said city may by ordinance establish a board of trustees for the management of said business, and may therein or thereby provide for the election or appointment of one or more of such trustees, by such individual subscribers, according as the amount so subscribed shall bear to the whole sum expended; the time and manner of such election and of voting thereat, the term of office of such trustees, and all other matters connected with the same, to be prescribed by said city.

SEC. 5. Should it be found by said city to be expedient to use the earth that may be excavated in making such improvement, in the erection of a high road or street, and which may be found useful as a part of any rail road or turnpike company, chartered by the authority of this state, said city shall have power to sell any such road or street to such company, and to receive pay therefor, either in the stock of any such company or otherwise as they may agree upon.

SEC. 6. This act to be in force from and after its passage.

## CHAPTER CCCCXL.

An Act to incorporate the Fort Wayne and Goshen Turnpike Company.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That Samuel Hanna, Samuel Edsall, Pliny Hoagland, Hugh McColloch, Robert Starkweather, and Peter Heller, of Allen county, J. N. Barnes of Elkhart county, Joel B. S. Smith and J. B. Shaffer of Noble county, and their successors in office, duly elected as hereinafter directed, are hereby constituted and appointed a body politic and corporate, and by the name and style of the Fort Wayne and Goshen Turnpike Company, shall be able and capable in law and equity to sue and be sued, plead and be impleaded, defend and be defended, answer and be answered unto in any and all courts of justice whatever; to make and use a common seal, and the same to alter, change, or renew at pleasure; and shall be able and capable in law to make contracts and enforce the same, and to make and to enforce the necessary by-laws, rules and regulations to enable them to carry into effect the provisions of this act, and the objects contemplated by the same not inconsistent with the laws and constitution of this state.

SEC. 2. The capital stock of said corporation shall be fifty thousand dollars, divided into shares of ten dollars each, with power to increase the capital stock, if necessary to accomplish the objects herein contemplated.

SEC. 3. The directors in this act named, or a majority of them, shall meet at such time and place as they may agree on, and organize said corporation by electing one of their body president; and after such organization, a majority of said board shall be a quorum to do business.

SEC. 4. The corporation shall have power to appoint agents, clerks, treasurers, surveyors, engineers, superintendents, artists, and all other persons and officers necessary to carry into effect the provisions of this act; they shall keep a journal of their proceedings, in which shall be entered all by-laws and regulations, and orders for the payment of such allowances as may be made to their officers, and all others in their employment, which journal and proceedings shall from time to time be signed by their president; they shall sit upon their own adjournments, or on the call of the president; when the president is absent they may appoint a president *pro tempore*, and shall fill all vacancies that may occur in their body.

SEC. 5. The corporation shall cause books to be opened for subscriptions to the capital stock, at such time and at such places as they may choose, due notice of which shall be given, in each of which books the following entry shall be made: "We, the undersigned, promise to pay the sum of ten dollars for each share of stock set opposite our names, in labor, materials, land or money (the value of the first to be settled by the board of directors) in such manner and at such times and proportions as the president and directors [of] the Fort Wayne and Goshen Turnpike Company may direct. Witness our hands, this—day of—A. D. 18—."

SEC. 6. It shall be lawful for all persons of lawful age, for the agent of any corporate body, for the agent of the United States on behalf of the same, for the commissioners of any county, the mayor and common council of any city, and the trustees of any town or village within the United States, to subscribe for any amount of capital stock; and the books shall be kept open for such space of time, and at such place or places, as the corporation may by their agents offer for sale in any other state any amount of stock, upon such terms and conditions as may be thought advisable; and they shall have power upon their credit to borrow money upon such terms, or raise means in such other way as may be agreed on by the parties, or sums necessary to complete such road as is contemplated in this charter.

SEC. 7. As soon as one hundred shares are subscribed, it shall be the duty of the corporation to give three weeks' notice thereof in the nearest newspaper printed in the vicinity of said contemplated road, and in such notice to appoint a time and place for the stockholders to meet and elect nine directors, who shall be stockholders and citizens of the state, which election shall be held within

three months after the last share in the one hundred shares shall be subscribed for, and shall be conducted by two judges appointed by the stockholders present, and the persons having a plurality of the votes given and counted in public, shall be declared duly elected; no share shall give to the owner a right to vote at any election, unless the same shall be held one month previous to the election; in all elections one share shall entitle the holder to one vote only, and votes may be given by persons holding the same or by one of any partners, or by the husband, father, mother, executor or administrator, trustee or guardian, or by the authorized agent of any corporation, state, United States, county, city, village and town, or any person having a right to vote may vote by proxy.

SEC. 8. It shall be the duty of the directors elected as above, and those elected at all subsequent elections, to meet as soon thereafter as they conveniently can, and elect one of their own body president, and directors thus elected shall continue in office until the next annual election, and until their successors are elected and organized.

SEC. 9. All elections after the first shall be held on the first Tuesday in December, annually, under the direction of the stockholders, not directors at the time to be appointed by the board at a previous meeting or by the stockholders present, of which election notice shall be given; *Provided*, That if from any cause whatever there shall be no election held on the day appointed, it shall be lawful to hold the election on any other day, to be designated by the directors.

SEC. 10. Certificates of stock shall be given to the stockholders which shall be evidence of the stock held; they shall be signed by the president and countersigned by the clerk; stock shall be transferable on the books of the corporation only, personally or by an agent or attorney, or by the administrators, executors, trustees, or guardians; but such stock shall at all time be holden therefor to the corporation, or for any sum that may thereafter become due on a contract made prior to such transfer.

SEC. 11. The corporation shall have power to call for such part of the stock subscribed, as may seem to them necessary to carry on the work, to be paid by the stockholders in such materials, land, labor, or money, as shall have been designated by the party subscribing for such stock, to be paid at such time and place as the board of directors may designate, by giving sixty days notice in one of the nearest newspapers to said route, or by giving written notice to the stockholders; in all such notices, the amount demanded on each share, and the time and place of payment shall be set forth, and it shall be the duty of the board of directors to give each person subscribing for stock in materials or labor, to furnish the same upon the road most convenient to his premises; and if any stockholder shall neglect or refuse to pay or furnish such requisition within ten days after the time mentioned in such notice for such payment, the cor-

poration shall have power to collect the same by an action at law in any court of competent jurisdiction, the same to be collected without the benefit of appraisement laws.

SEC. 12. The corporation shall require all officers and others in their employment, [to give] bond, with security to their acceptance, with such penalty as they may think proper, for the faithful performance of their respective duties.

SEC. 13. The corporation by their agent shall have power from time to time to examine, mark, and locate the route of said turnpike road, from Fort Wayne, Allen county, to Goshen, Elkhart county, with power to diverge from a direct line for the interest of the company and public convenience; such road shall not exceed one hundred feet in width.

SEC. 14. And for the purpose of making such examinations and locations, it shall be lawful for the corporation, by their agents, and persons in their employ, to enter upon any lands to make survey and estimates, for the purpose of searching for stone, gravel, wood, or other material necessary for the construction of said road.

SEC. 15. It shall be lawful for the corporation either before or after the location of any section of said road, to obtain from the person or persons through whose lands said road may pass, a relinquishment of so much of said land as may be necessary for the construction of said road, or location thereof, as also the stone, gravel, wood, timber, or other materials that may be obtained on said route, or near thereto, for the benefit of said corporation; and all such contracts, relinquishments, donations, gifts, grants and bequests, made and entered into in writing, by any person or persons, capable in law to contract, made in consideration of such location, or otherwise, and for the benefit of such corporation, shall be binding and obligatory, and the corporation may have their action in law in any court of competent jurisdiction, to compel the observance of the same.

SEC. 16. The corporation shall cause said road to be opened not exceeding one hundred feet wide, and at least twenty feet shall be made an artificial road, (except upon such points as may be upon a good natural road already in use,) and such road to be covered with gravel, sand, wood, stone, coal, clay, or such other materials as can best be secured, to be put on in as compact a manner as is usual for such materials.

SEC. 17. If it shall be found convenient or advantageous to the construction and location of said road, the corporation shall have the power and the right to lay the same along or upon any state or county road; *Provided*, That all state and county roads, crossing said turnpike road, shall be left open and free.

SEC. 18. That when said road, or any particular section thereof, shall be located, it shall be the duty of said corporation to cause a plat or plats thereof to be deposited in the office of the county auditor in the county where such road is located, and after that time it shall not be lawful for said corporation to alter or change any part

thereof, unless said corporation pay the owner or owners of the land on said route the amount of damage they may sustain by said change.

SEC. 19. That if said road after its completion, or any section thereof, shall be suffered to go to decay, or be impassable one year, unless the same is repairing, this charter shall be considered as forfeited.

SEC. 20. The corporation shall commence the construction of the same within five years, and complete so much thereof as shall be for the general interest of all concerned, and the means of the company will allow; and whenever five continuous miles of said road shall be completed agreeably to the provisions of this act, the county commissioners of the proper county shall appoint an agent to examine the same and report his opinion, in writing, to the corporation, and if said road report shall state the road, or any continuous five miles of the same, to be completed agreeably to the provisions of this act, the corporation may then erect a gate or gates at suitable distances apart, not less than five miles, and demand and receive of all persons traveling said road such tolls and at such rates as said corporation may determine upon to collect and receive from all persons traveling, or for the privilege of driving all kinds of live stock, wagons and teams, pleasure carriages, sleighs, and all other vehicles and things that may pass said road, or any part thereof, as shall be for the interest of said company, and the same to change, lower, or raise at pleasure. A list of the rates established from time to time shall be posted up at some conspicuous place or places at each gate.

SEC. 21. If any person or persons using said road, shall, with intent to defraud said corporation, or to avoid the payment of toll, pass through any private way, gate, or bars, or along any other ground near to said turnpike gate, which shall be enclosed pursuant to this act, or shall practice any fraudulent means with intent to evade or lessen the payment of such toll, or if any person shall take another person off said said road with intent to defraud such corporation, each and every person concerned in such fraudulent practice, shall for every such offence forfeit and pay to the corporation the sum of five dollars, without any benefit of appraisement or stay law, to be recovered with costs of suit in an action of debt at the suit of the corporation, before any justice of the peace in the county: *Provided*, That nothing in this act shall be so construed as to prevent persons residing along said road from passing about their premises, between the gates on said road, upon ordinary business.

SEC. 22. The company shall set up a post or a stone at the end of every mile, with the number of miles from the place where the road may commence fairly cut or painted thereon, and also in a conspicuous place near each gate shall be placed a board with the rates of toll fairly painted thereon, and all the necessary matter in relation to direction.

board of directors may designate, by giving sixty days' notice in one of the nearest newspapers to said road, or by giving written notice to the stockholders; in all such notices the amount demanded on each share, and the time and place of payment shall be set forth, and it shall be the duty of the board of directors to give to each person subscribing for stock in materials or labor, notice to furnish the same upon the road, designating the point where it will be received; and if any stockholder shall neglect or refuse to pay or furnish such requisition within ten days after the time mentioned in such notice for such payment, the corporation shall have power to collect the same by an action at law, in any court of competent jurisdiction, with ten per centum damages thereon.

SEC. 6. The corporation shall require of all officers and others in their employment, bond with security to their acceptance, with such penalty or penalties as they may think proper for the faithful performance of their respective duties.

SEC. 7. That said directors have full power and authority to purchase or bargain for the right of way of the Michigan road company; or as either company or individuals over whose land said road may pass, and have a conveyance therefor to said company.

SEC. 8. That said Michigan road company, or any other company, be, and they are hereby, authorized and empowered to subscribe for stock in said company, under such rules and regulations as the board of directors may order and direct.

SEC. 9. The corporation shall cause books to be opened for subscription to the capital stock, at such time and at such place or places as they may choose, due notice shall be given in at least one newspaper published in the town or city where said books are proposed to be opened.

SEC. 10. That when said corporation shall have procured a right of way as hereinbefore provided, they shall be seized in fee simple of the right to said land, and shall have the sole use and occupation of the same; and no person, body corporate or politic, shall in any way interfere therewith, molest, disturb, or injure any of the rights and privileges hereby granted, or that would be calculated to detract from or affect the profits of said corporation.

SEC. 11. The corporation shall commence the construction of said road, any time within five years after the opening of the books, and from time to time, construct so much towards the point of destination as may be within the ability and to the interest of the company, and shall complete it within fifteen years from its commencement: *Provided*, That if the road should not be completed within the time aforesaid, the General Assembly may, for good cause shown, give further time for its construction: *Provided*, also, That any part of said road shall be completed within the time aforesaid, in that case, all the rights, privileges, and benefits granted in this act shall be extended to, and vested in said company, to such part of said road as shall be completed.

SEC. 12. It shall be the duty of said road corporation, whenever any state or county road now established, shall cross or may hereafter cross the railroad, to make and keep in repair good and sufficient causeways, so that the free use of state and county road shall not be obstructed; and in all cases where any person shall own land on both sides of said road, and there shall not be any causeway for a public road leading from one tract to the other, the owner of such lands shall have the right, free of charge, to cross the same, and to make such causeways as may be necessary for the convenience of said owner: *Provided*, That such owner of land shall not injure or obstruct said road.

SEC. 13. That it shall be lawful for said corporation to place or prescribe the kind of carriages that may be used on said road, whether propelled by steam or by other power; for the transportation of passengers, for all kinds of produce, lumber, goods, wares and merchandise, or any other kinds of property, and for this purpose the corporation may construct said road with such turns, gates, bridges, aqueducts, culverts, toll and ware houses, as may be considered necessary for the interests of the company and convenience of the public; and the corporation may charge tolls and freights on such part of the road as may be in a sufficient state for travel, although the whole be not finished; and they may charge for travel and transportation on the same, when it is graded and bridged, although the rails may not be laid so as to admit carriages thereon.

SEC. 14. The corporation may charge and receive such tolls and freights for the transportation of persons, commodities, and carriages on said road, or any part thereof, as shall be for the interest of said company, and to charge, lower, or raise at pleasure: *Provided*, That the rates established from time to time shall be posted in some conspicuous place or places on said road.

SEC. 15. Said company shall not issue any scrip, or other evidence of debt to be used as a circulating medium.

SEC. 16. The corporation by their agents shall have full power from time to time to examine, make, survey, and locate a route for a railroad, for a single or double track, commencing at the town of Indianapolis, in Marion county, and running on the best ground for the interest of the company and the convenience of the public, to the town of Logansport, in Cass county, thence to the town of Rochester, in Fulton county, thence to the town of Plymouth, in Marshall county, thence to connect with the Buffalo and Mississippi railroad, leading to Michigan City, at such point as the directors may select.

SEC. 17. This act shall take effect and be in force from and after its passage, and shall be deemed and taken as a public act.

[The foregoing bill was presented to me on the 11th day of February, 1848, for my approval, but time not being afforded for the desired research, in the midst of official duties, it was not ap-

SEC. 23. Any person wilfully or negligently destroying, defacing, or removing any guide-board, mile-post or stone, or list of rates of toll erected on said road, or remove any plank, board, or other materials which may have been used in the construction of said road, shall, on conviction thereof before any justice of the peace or court having competent jurisdiction, forfeit and pay a sum not exceeding twenty dollars, to be recovered with costs of suit, in an action on the case, at the suit and for the use of the corporation.

SEC. 24. If any toll-gatherer on said road shall unreasonably detain any passenger after the toll has been paid or tendered, or shall demand or receive greater toll than by this act allowed, he shall for every such offence forfeit and pay a sum not exceeding ten dollars, to be recovered before any justice of the peace having competent jurisdiction, within twenty days after the occurrence.

SEC. 25. The corporation shall cause to be kept a fair account of the whole expenses of making and repairing said road, or any section thereof, with incidental expenses; also a fair account of the tolls received, and the books of the corporation shall always be kept open for the inspection of an authorized agent of the state, or stockholder of said company; and the company shall have the right to sell the stock to the state upon such terms as they may agree.

SEC. 26. This charter shall be limited to fifty years duration, and be in force from and after its passage, and be liberally construed as a public act, for all beneficial purposes.

SEC. 27. Every person residing on premises through, or touching which said road passes, shall have the privilege at all times of passing and of going along and over said road, for the distance of one and a half miles each way from his place of residence without paying any toll or charge for himself, or for any of his cattle, teams or property.

SEC. 28. The directors that may contract any debts over and above the amount of stock secured, shall be liable, in their individual capacity, for the payment of all dues to laborers for work done upon said road, which shall not have been paid when due by the company in its corporate capacity.

SEC. 29. The legislature reserves the right to repeal this charter whenever its provisions are violated; but if repealed, the assets, after the payment of all liabilities, shall be divided among the several stockholders, in proportion to the amount of stock paid in by each.

SEC. 30. The board of directors shall have power to receive, by deed or other proper and legal conveyance, any lands, mortgages, stocks in any other companies, or other materials, which may be subscribed for stock in this company, and sell the same for money, labor, or otherwise convert the same into means to be used in the construction of said road, and to give all proper deeds, or other legal conveyance, that may be necessary to complete the sale of the same.

## CHAPTER CCCCXLI.

An Act to incorporate the lake Michigan, Logansport and Ohio river Railroad Company.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That James W. Dunn, Williamson Wright, and George B. Walker, of the county of Cass, Anthony F. Smith, of the county of Fulton, George W. Cleavland, of the county of Marshall, and David G. Rose, of the county of Laporte, and Samuel C. Sample, of the county of St. Joseph, and State of Indiana, and their successors in office elected as hereinafter provided, are constituted a body corporate and politic by the name of "the Lake Michigan, Logansport, and Ohio River Railroad Company," and by such name shall be capable to sue and be sued, plead and be impleaded, answer and be answered unto, in any court of either law or equity having jurisdiction within this state; shall have power to make and use a common seal; make contracts, and enforce the same; borrow money and give evidence of such indebtedness, and execute mortgages to secure the payment of the same; establish and put in force such by-laws, rules, and regulations as may be necessary to carry into effect the provisions of this act not inconsistent with the constitution of this state.

SEC. 2. The capital stock of said company shall be one million of dollars, to be divided into shares of twenty-five dollars each.

SEC. 3. The directors named in this act, or a majority of them, may meet at such time and place as they may agree upon, after due notice of the time and place of meeting, and organize by the election of a president, of one of their body; and a majority thereafter shall constitute a quorum, and they shall have power to appoint all officers, engineers, and agents necessary to carry the spirit of this act into effect.

SEC. 4. That all provisions, rights, privileges, powers, grants, and immunities granted and provided by an act of the General Assembly of this state, entitled "an act to provide for the continuance of the construction of all or any part of the public works of this state by private companies, and for abolishing the board of internal improvements and the office of fund commissioner and chief engineer," approved January twenty-eight, eighteen hundred forty-two; and also the subsequent act relative to the Madison and Indianapolis railroad, all the rights and powers therein granted to private companies, be, and the same are hereby, granted, enacted, and confirmed upon the lake Michigan, Logansport, and Ohio river Railroad company, except as by this charter is provided and restricted.

SEC. 5. The corporation shall have power to call for such part of the stock subscribed as may seem to them necessary to carry on the work, to be paid by the stockholders in such materials, land, labor, or money as shall have been designated by the party subscribing for such stock, to be paid at such time and place as the

proved nor returned with my objections to the Senate before this 17th day of February, 1848, and has therefore become a law.

JAS. WHITCOMB.]

## CHAPTER CCCCXLII.

An Act to vacate a part of a street in the town of Bloomington.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That that portion of a street running east and west between lots Nos. 18 and 12, in the seminary lot west of Bloomington, commencing at the southeast corner of lot No. 10, and ending at the southwest corner of lot No. 7, be, and the same is, hereby, vacated; and that John M. Berry, commissioner of the reserved township of seminary lands in Monroe county, be, and he is, hereby, authorized to sell said vacated street to John Campbell at the original appraised value of said lands or lots.

SEC. 2. That said commissioner, after making such sale, shall be governed in all respects by the law now in force relating to the sale of said lots. This act to be in force from and after its passage.

## CHAPTER CCCCXLIII.

An Act to incorporate the Chamberline Mills.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That Arthur Humphrey, William B. Chamberline, Eliphalet Case, Jacob R. Harris, Sylvanus How, Elias M. Humphrey, Stephen Humphrey, and Asa Hildreth, their associates, successors, and assignees be, and they are, hereby, made a corporation by the name of "The Chamberline Mills," for the purpose of manufacturing cotton and other goods, at the town of Patriot, Indiana; and for this purpose shall have all power and privileges, and be subject to all

the duties and requisitions contained in the Statutes of 1843, chapter thirty-two, article second, respecting corporations.

SEC. 2. *Be it further enacted*, That the capital stock of said corporation shall not exceed two hundred thousand dollars, in shares of one hundred dollars each; and that the said corporation may be seized and possessed of such real estate as may be necessary and convenient for the purposes aforesaid not exceeding twenty thousand dollars, exclusive of buildings and improvements that may be made thereon by the corporation.

SEC. 3. The trustees of said company shall give notice semi-annually in some newspaper printed in the county of Switzerland; and in case no newspaper is printed therein, then in some newspaper in an adjoining county, in the months of January and July, of the amount of all the assessments voted by the company and actually paid in and remaining undivided, and the amount of the then existing capital stock invested in real estate, buildings, machinery, and other fixtures; if any such trustees shall wilfully neglect to give such notice, or shall knowingly publish a false statement, he shall be fined in any sum not exceeding two thousand dollars on indictment and conviction thereof, to be applied like other moneys appropriated for the purposes of general education, and at once becomes liable for all debts contracted by the corporation.

SEC. 4. The said company are hereby expressly prohibited from contracting any debt or debts exceeding at any one time the amount of the capital stock invested in real estate, machinery, buildings and other fixtures, within the State of Indiana, but in no case to exceed one-half the amount of the capital stock paid in and remaining undivided; and if any director or directors, or other officers of said company shall vote to contract, or in any way authorize the contracting, or shall contract any debt or debts exceeding in amount the sum allowed and authorized to be contracted by this act, such director or directors, or other officers shall at once become severally and individually liable for the payment of said debt or debts; and it is hereby further provided and required, that no person shall be chosen treasurer or director who is not a stockholder.

SEC. 5. This act shall take effect and be in force as a public act during the term of fifty years from and after its passage, unless the said corporation shall be sooner voluntarily dissolved by the stockholders, of which due public notice shall be given.

## CHAPTER CCCCXLIV.

An Act to repeal an act, entitled "An act to repeal an act incorporating the town of Greensburg, in Decatur county, Indiana," approved January 28, 1843, and for other purposes.

[APPROVED FEBRUARY 11, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the act, entitled "An act to repeal an act incorporating the town of Greensburg, in Decatur county, Indiana," approved January the twenty-eighth, eighteen hundred and forty-three, be, and the same is, hereby repealed.

SEC. 2. That an act, entitled "An act to incorporate the town of Greensburg, in Decatur county, Indiana," approved February the fourth, eighteen hundred and thirty-seven; and an act to amend an act, entitled "An act to incorporate the town of Greensburg, in Decatur county, Indiana," approved February the seventeenth, eighteen hundred and thirty-eight, be, and each of them are, hereby, revived; and all the rights, franchise, privileges, and immunities held, possessed, and enjoyed by and under the acts hereby revived, be, and they are, hereby, fully restored and again re-established to all intents and purposes, as if the same had never been repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

## CHAPTER CCCCXLV.

An Act relative to the estate of John Sims deceased.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That it shall be the duty of the administrators of the estate of John Sims deceased, within sixty days after the approval of this act, to return upon oath to the probate court of the county of Morgan, a true inventory of the real estate of which the said John Sims died seized, and which shall remain unsold, describing each tract or lot; and returning upon the oath of three disinterested free holders, the value of the same.

SEC. 2. It shall be the duty of said administrators at the same time, to return to said court, a true statement upon oath of the existing liens upon the several tracts of lands, specifying each lien suffered or obtained in the lifetime of said Sims, the date, amount,

and value of the lien, to whom delivered, and upon what lands the same is binding.

SEC. 3. After the return of said inventory, statement and appraisal, it shall be lawful for any creditor of the estate, holding such lien, to file a petition in said court, setting forth therein the date, amount and value of the lien, with a description of the estate upon which such lien operates, the amount, date, and value [of] prior liens, averring a willingness to accept such part of such real estate, at two thirds of its appraised value, as shall be sufficient to discharge such lien, and praying a decree of the court, that such part shall be conveyed by the administrators in discharge of the same to which petition the heirs and administrators shall be made parties as defendants.

SEC. 4. After the filing of such petition, it shall be the duty of the clerk of the court, to issue a summons returnable to the next term of the court, requiring the administrators and heirs to appear, and show cause, if any there be, why the court shall not decree in favor of the petitioner in pursuance of the prayer of the petition; or if the defendants are not residents, publication may be made as in other cases.

SEC. 5. If the summons shall be served ten days before the term or publication as required in other cases of non-residents thirty days before the same, the case shall be heard by the court, and if no sufficient cause shall be shown against the prayer of the petition, it shall be lawful for the court to decree that so much of said real estate described in the petition, as shall be sufficient at two-thirds of its appraised value, to pay and discharge such liens, shall be conveyed by deed, by the administrators, to such petitioner in full discharge of such debt and interest, and the court in ascertaining the quantity of the land to be conveyed as aforesaid, shall be governed by the returned appraised value of the whole tract, and by such evidence of the relative value as shall be given by the parties; and if necessary may order a survey to be made and returned describing the meets and bounds of the lands to be thus set apart and surveyed.

SEC. 6. The court in making the decree as herein provided for, shall look into the dates of the several liens upon the real estate aforesaid, and shall take into consideration their priority, and shall in no case decree in favor of a junior lien, unless the petitioner shall consent in his petition to take the property subject to the incumbrance of all prior liens, and agree to pay the same; in which case the court may deduct the amount of the senior liens from the two thirds of the appraised value of the lands described in the petition, and decree so much of the property to the petitioner as shall be sufficient to discharge the prior liens, and the liens of the petitioner, and the principal and interest of the claim of the petitioner upon the estate shall be discharged from and after the execution of the deed as herein provided, which shall recite the facts upon which it is founded; but the prior liens shall not be affected until they shall

be discharged by such petitioner, and until so discharged, said petitioner shall not be entitled to the possession of the lands named in his petition, and should the same not be discharged by the petitioner, and be satisfied by the estate out of other property than that named in the deed of the petitioner, then said prior liens shall remain valid for the benefit of the estate.

SEC. 7. All deeds executed by the administrators under the provisions of this act, shall be returned to the probate court and if approved shall be acknowledged in open court, and shall be thereafter prima facie evidence of the legality of the sale and proceedings and good and valid to pay the estate of the said heirs in the premises, to the vendee and his heirs in fee.

SEC. 8. The administrators in the settlement of the estate shall be entitled to a credit for the amount of all claims against the estate which may be extinguished under the provisions of this act, and shall be charged with the real estate so conveyed; *Provided*, That nothing in this act shall be so construed as to require the creditors accepting such real estate to pay any costs, but all costs upon the original lien shall be paid by the administrator out of the estate; *And provided also*, That this act shall in no wise affect any conveyance that has been made by the administrators of the real estate of said Sims, under the orders of the probate court, nor shall it authorize any change from the law as to the settlement of the personal estate, or real estate upon which no liens exist.

SEC. 9. This act to be in force from and after its passage.

## CHAPTER CCCCXLVI.

An Act to authorize the commissioners of Jay county to assess an additional tax.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the county commissioners of Jay county shall assess an additional tax of one and a fourth cent on each acre of land situate within one mile of the Salamony river in said county, or any part of said lands situated as as aforesaid, subject to taxation, which taxes shall be assessed, placed on the tax duplicate, and distributed agreeably to the laws now in force on that subject, and may be marked out on the Salamony river (by or in removing obstructions thereout of, and improving the channel of said river) under the directions of the supervisor of the road district in which said lands are situate, in all respects as road taxes arising from the lands

of the necessary fixtures, including posts, piers, or abutments for sustaining the cords or wires upon such lines; *Provided*, The same shall not be so constructed as to incommode the public use of said roads or highways, or in any way interrupt or obstruct the navigation of said waters.

SEC. 8. If any person over whose land said lines shall pass, upon which said posts, piers, or abutments shall be placed, shall consider himself aggrieved or damaged thereby, it shall be the duty of any justice of the peace within whose jurisdiction such lands are, on the application of such person, and on notice to said company, (to be served on the president or any director,) to appoint three disinterested persons of the neighborhood, who shall, after taking an oath faithfully and impartially to assess the damages, if any, shall, upon view, justly and equitably appraise all the loss or damage sustained by said applicant by reason of said lines, posts, piers, or abutments, and shall make out and file their report of such appraisement, whereupon said justice shall enter judgment thereon, unless for good cause there shown; and in case either party should show sufficient cause why judgment should not be entered, the justice may grant a review of the premises, either with or without costs; *Provided*, That either party may, at any stage of the proceedings, appeal to the circuit court of the proper county as in other cases, and such court shall appoint reviewers as above directed, who may report at that or succeeding terms, in the discretion of the court, and the judgment of the circuit court shall be final.

SEC. 9. Any person who shall unlawfully and intentionally injure, molest, or destroy any of said lines, posts, piers, or abutments, or materials or property belonging thereto, shall, on conviction thereof, be deemed guilty of a misdemeanor, and be punished by a fine not exceeding five hundred dollars, or imprisonment in the county jail of the proper county for any time not exceeding three months, or both, at the discretion of the court having cognizance thereof. Prosecutions under this act shall be by indictment in any court of competent jurisdiction.

SEC. 10. If the corporation, hereby created, shall refuse to receive despatches from and for other telegraph lines and companies, and shall refuse to transmit the same in good faith, and with impartiality, the said corporation so offending, shall forfeit all the rights and privileges acquired under this act, and the same shall cease and be dissolved; and in all cases for the wilful failure to transmit despatches received at any telegraph office of said company, or the wilfully improper transmission of the same, or any other wilful neglect, the said company shall be liable as common carriers to the party injured.

SEC. 11. If it shall happen at any time that no election of directors shall be held on the day when by law the same should have been held, the corporation shall not for that reason be deemed dissolved; but an election may be held at any subsequent period.

The number of directors may, at any time hereafter, be increased or diminished, if deemed expedient, by vote of the stockholders; and the directors may, from time to time, appoint such officers and agents, and remove the same, at pleasure, and employ such persons as may be necessary and proper. The said directors shall have power to establish general regulations as to the receipt, delivery, and transmission of despatches, without any distinction as to persons; and may fix and alter, at pleasure, the rates of telegraphage, which, at all times, shall be posted in some conspicuous place in every office of said company.

SEC. 12. To the end that the provisions of this act may be open to all: *Be it further enacted*, That any number of persons—not less than five—may associate for the purpose of constructing a line of telegraph through the State of Indiana, or from or to any point within the said state, upon such terms and conditions and subject to the liabilities prescribed in this act.

SEC. 13. Such persons, under their hands and seals, shall make out a certificate, which shall specify:

1. The name assumed to distinguish such association, and to be used in its dealings, and by which it may sue and be sued.
2. The general route of the line of telegraph designating the points to be connected.
3. The capital stock of such association, and the number of shares into which the stock shall be divided.
4. The names and places of residence of the shareholders, and the number of shares held by each of them respectively.
5. The period at which such association shall commence and terminate; which certificate shall be proved or acknowledged and recorded in the office of the clerk of the county where any office of such association shall be established, and a copy thereof filed in the office of the secretary of state. Such acknowledgment may be taken by any officer authorized to take the acknowledgments of deeds of real estate, at the place where such acknowledgment is taken.

SEC. 14. Upon complying with the provisions of the last preceding section, such association shall be, and hereby is, declared to be a body politic and corporate, by the name so as aforesaid, to be designated in said certificate; and a copy thereof, duly certified by the clerk of the county where the same is filed and recorded, or by the secretary of the state, may be used as evidence in all courts and places, for and against any such association. And said association, thus incorporated, shall be entitled to all the powers and privileges and subject to all the restrictions conferred or imposed upon the Ohio and Mississippi Telegraph Company, under the provisions of this act.

SEC. 15. This act shall take effect and be in force from and after its passage, and shall be deemed and taken to be a public act in all courts of justice.

## CHAPTER CCCCXLVIII.

An Act concerning the distribution of the laws and journals in Bartholomew county.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That it shall be the duty of the clerk of the circuit court of the county of Bartholomew, in the distribution of the laws and journals of the legislature of this state hereafter delivered to him, to distribute to the Hartsville public library one copy of the General Laws, one copy of the Local Laws, one copy of the House Journals, and one copy of the Senate Journals of each session of the legislature, for the use of said library.

SEC. 2. That it shall be the duty of the state librarian to deliver to the secretary of state one copy of each of the former revisions of the laws of this state: *Provided*, There are surplus copies of the same in the state library; which said copies shall be, by the secretary of state, forwarded with the laws and journals of the present session, to the clerk of the circuit court of Bartholomew county, for the use of the Hartsville public library.

SEC. 3. It shall be the duty of the secretary of state to forward annually an additional copy of each of the legislative journals to the clerk of the circuit court of Bartholomew county for the use of said library.

SEC. 4. It shall be the duty of the clerk of said county to furnish to said library one copy of each of the General and Local Laws of this state passed since the revision of 1843, if there be surplus copies of the same remaining in his office.

SEC. 5. This act to be in force from and after its passage.

## CHAPTER CCCCXLIX.

An Act to incorporate the Tippecanoe Bridge Company.

[APPROVED FEBRUARY 10, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That John Purdue, Jesse Andrew, and Elias L. Beard, and such other persons as shall become stockholders to the company hereby created, according to the provisions of this act, be, and they are hereby created a body politic and corporate, with the name and style of "the Tippecanoe Bridge Company," and by that name the said company shall have capacity to contract and be contracted with, sue and be sued, plead and be impleaded, both in law and

equity; and said company shall have full power and authority to ordain and establish all such by-laws and regulations, not repugnant to the laws of this state, as may be necessary for the proper management of the affairs of said company.

SEC. 2. The capital stock of said company shall be fifty thousand dollars, and shall be divided into shares of fifty dollars each.

SEC. 3. The said John Purdue, Jesse Andrew, and Elias L. Beard, or any two of them, shall, as soon as convenient after the passage of this act, open books for receiving subscriptions to the capital stock of said company, and shall give notice thereof, (specifying the place or places where subscriptions will be received,) by advertisement in one or more of the newspapers published at Lafayette.

SEC. 4. So soon as ten thousand dollars shall be subscribed to the capital stock of said company, the said Purdue, Andrew, and Beard, or a majority of them, shall fix the time and place (in Lafayette) of a meeting of the stockholders of said company, for the purpose of electing directors, and shall give notice thereof by publication for three weeks in one or more of the newspapers published at Lafayette: at which said meeting the stockholders of said company shall elect five suitable persons, being stockholders of said company, to serve as directors of said company for one year, and until their successors shall be chosen and qualified: the proceedings of which said meeting shall be entered on the record or minute book of said company, and signed by said Purdue, Andrew, and Beard, or a majority of them; and immediately thereupon the powers and duties of said John Purdue, Jesse Andrew, and Elias L. Beard, in the premises shall cease, and the said corporation shall thenceforth consist only of such persons as shall, for the time being, be stockholders of said company.

SEC. 5. There shall annually be elected, by the stockholders of said company, five persons, being stockholders, to serve for one year as directors of said company; the time and place of which election shall be fixed by the directors for the time being, who shall give three weeks' notice thereof by publication in one or more of the newspapers published at Lafayette. A majority of the directors for the time being shall constitute a *quorum* to transact business, and all vacancies shall be supplied by appointments made by a majority of the remaining directors for the time being. Each board of directors, at its first meeting, shall choose one of their own body as president, and shall appoint a secretary, and such other officers as may be necessary. A failure of the stockholders to elect directors at any annual election, shall not operate a dissolution of said corporation; but the directors for the time being shall continue to exercise their functions until their successors are properly chosen and qualified.

SEC. 6. The directors for the time being may call special meetings of the stockholders, when deemed necessary. In all elections of directors, and at all other meetings of the stockholders, each

stockholder shall be entitled to vote, either in person or by proxy, under such regulations as may be prescribed by the directors, according to the following scale, to wit: for each share not exceeding ten shares, one vote; and for every two shares above ten shares, one vote. Half yearly dividends of so much of the profits as the company may deem expedient, shall be delivered by the directors on the first Mondays in January and July in each year, and paid to the stockholders or their legal representatives as soon thereafter as can be conveniently done.

SEC. 7. The directors may require payment of all sums subscribed by the stockholders at such times and in such installments as they may think proper, by giving thirty days' notice in some newspaper published in Lafayette, or by giving written notice to the stockholders, stating the sum required on each share, and the time and place of payment; and if any stockholder shall fail or neglect to pay such installment for ten days after the time so stated for such payment, said corporation may sue for and recover the same in any court of competent jurisdiction, with two per centum per month interest thereon, in an action of debt or assumpsit against such delinquent; and if the same cannot be made on execution, or if such delinquent reside out of the state, said corporation may, through the directors for the time being, declare such stock forfeited to the corporation, with whatever sums may have been paid thereon; and the same shall be absolutely forfeited to said corporation.

SEC. 8. Said company are hereby authorized and empowered to purchase and hold sufficient real estate to carry into effect the provisions of this act, and to erect a bridge across the Wabash river at any point within the corporate limits of the town of Lafayette, which bridge shall be not less than twenty-five feet wide, and of sufficient height or with a sufficient draw bridge to admit steam-boats under or through the same, and so as not to obstruct the navigation of the Wabash river, or to interfere with any ground occupied by any other bridge company in said town; and the state reserves the right to improve the navigation of said river in such manner as may be deemed most conducive to the interest of the state. Said bridge shall be commenced within two years from the passage of this act, and completed within three years thereafter, and if not so commenced and completed, this act shall be null and void. Said corporation shall be entitled to the writ of *ad quod damnum*, and to all the benefits of the law allowing such writ for the purpose of having condemned the necessary quantities of ground for the erection of abutments, toll houses, and all necessary causeways, bridges, and embankments. And when said bridge shall be completed said company may erect a gate at or near either or both ends thereof, and demand and receive a toll not exceeding the following rates, to-wit: for every four wheeled carriages, drawn by two horses or oxen, twenty-five cents; for every additional horse or ox attached to such carriage, five cents; for every wagon or cart, sleigh, sled, or cutter, drawn by one horse, fifteen cents; for every cart, sleigh, or sled, drawn by two

horses, twenty cents; for each horse or mule, five cents; for each head of cattle, three cents; for every sheep or hog, under the number of fifty, one cent; and for every sheep or hog over that number, one-half cent; for every foot passenger, five cents; and in analogous rates for any other animals and carriages; but all persons going to or returning from muster, when doing military duty, and all funeral processions, shall be exempt from paying toll.

SEC. 9. Certificates of stock, signed by the president and countersigned by the secretary, shall be issued to the stockholders, which shall be evidence of stock held; and the stock shall be transferrable only on the books of said company; but such stock shall at all times be holden by, and a lien thereon is hereby granted to the company for any debts due the same from the holders of said stock.

SEC. 10. Any person or persons who shall wilfully impair or injure said bridge, shall, upon conviction thereof, by presentment or indictment, be fined in any sum not exceeding one hundred dollars, and shall moreover be liable to said company for treble the amount of damages thus done, to be recovered in an action of debt in any court of competent jurisdiction, with costs of suit. Any person who shall pass the gate of said bridge without having paid the legal toll shall forfeit and pay to said company eight times the amount of such toll, to be recovered by action of debt, before any justice of the peace in Tippecanoe county. Any toll gatherer or agent of said company who shall unreasonably delay or hinder any passenger at the gate thereof, or who shall demand or receive more than the legal toll, shall, for every such offence, on conviction thereof, be fined a sum not less than five dollars, for the use of the county seminary of Tippecanoe county.

SEC. 11. This act to be in force from and after its passage.

## CHAPTER CCCCL.

An Act authorizing the sale of section sixteen in township No. twenty-eight north, range eight east, in the county of Huntington.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That it shall be lawful, and it is made the duty of the auditor and school commissioner of Huntington county to advertise and sell school section number sixteen, in township number twenty-eight north, range eight east, so soon as a majority of all the

legal voters in the township above named, shall petition the afore-said auditor and commissioner, asking for the sale of the above described section.

SEC. 2. The school commissioner and auditor above named, in the sale of the above section, shall be governed in all respects by the law now in force regulating the sale of school lands, except so far as relates to the voting for the sale of the same.

SEC. 3. This act to be in force from and after its passage.

### CHAPTER CCCCLI.

An Act to prevent the sale of spirituous liquors in Wayne, Washington, and Franklin townships, in Wayne county, by less quantity than ten gallons.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That it shall be unlawful for any person or persons to sell any spirituous liquors in Wayne, Washington, and Franklin townships, in Wayne county, by any less quantity than ten gallons, except for mechanical or medicinal purposes.

SEC. 2. Any person or persons who shall offend against the provisions of this act, shall be fined in any sum not less than three nor more than twenty dollars, by presentment or indictment by the grand jury of Wayne county, or be recovered by an action of debt, before any justice of the peace of said townships.

SEC. 3. All acts and parts of acts contravening the provisions of this act, be and the same are hereby repealed, so far as refers to Wayne, Washington, and Franklin townships, in Wayne county, and this act shall be in force from and after its passage.

### CHAPTER CCCCLII.

An Act amendatory to an act, entitled "An Act to incorporate the White Water Valley Canal Company," approved January 20, 1842.

[APPROVED FEBRUARY 1, 1848.]

WHEREAS, The White Water Valley Canal Company is now greatly embarrassed because of the immense damage done their canal by the extraordinary floods that have devastated said valley during the last year: AND WHEREAS, Said canal now lies in an exposed and ruinous condition, to resuscitate which large debts have been incurred by the company, and other large debts must be created, because of which, and the burden of the large funded debt growing out of the original construction of the canal, the credit of the company is now wholly frustrated and apparently irrecoverable unless the company are enabled to make rateable requisitions upon their own stock, being in amount some four hundred thousand dollars, in the hands of some seven hundred corporators, residing in different parts of this and other states: Therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That whenever said company may need any amount of funds to put or keep said canal in repair, or to pay any interest that may become due and owing by said company on any debt hereafter to be created for the purpose of making such repair, unless each stockholder come forward and pay the rateable assessment on his stock, as hereinafter contemplated, it shall be lawful for said company from time to time to expose the stock for sale, and sell the same to the highest bidder, or so much thereof as may be requisite to raise the required amount of funds on such terms and under such regulations and restrictions as the board of directors may deem expedient: *Provided, however*, That the requisition so made shall not, during any one year, exceed ten per centum on the whole amount of stock.

SEC. 2. At least sixty days' notice of any such requisition and sale shall be given by the company in one or more of the public newspapers, which notice shall indicate the amount of the requisition upon each share of stock, and unless the same shall be paid in cash on or before the day previous to this one fixed for such sale, so much of the stock as will make the amount of the requisition shall be publicly sold at the office of the canal company.

SEC. 3. In due time, after the sale of any stock as aforesaid, the stock accounts of the proper holders shall be accordingly charged and reduced upon the books of the company, unless the same be superseded as hereinafter provided.

SEC. 4. The person who may bid in stock so exposed to sale,

may, at his election, pay for the same in cash down, and take his certificate for the amount purchased at the time; or he may execute his bond to the company for the payment of the amount of his bid within ten days thereafter, conditioned that there shall be a forfeiture to the company of ten per centum on the amount of the bond in case default be made in the payment thereof agreeably to its terms, and the company on such default, at their election may, within ten days thereafter, proceed to the collection of said bond with said forfeiture, or they may adjudge said sale void, and on payment of the forfeiture surrender the bond and expose said stock to sale, giving at least thirty days' notice of the sale as aforesaid, the stock still being subject to redemption as aforesaid by the holders at any time prior to the day fixed for the sale.

SEC. 5. Whenever a bond shall be given as above contemplated, any stockholder whose stock may have been so sold may redeem the same by paying into the treasury of the company, prior to the maturity of the bond, the amount of the requisition made upon his stock, together with ten per centum thereon for the purchaser, who shall thereupon relinquish the same and be entitled to a certificate for the balance only, the proper credit being made by the company on his bond, and the collection of any judgment had on any such bond shall be enforced without the benefit of any stay or valuation laws of this state.

SEC. 6. An additional time of three years from and after the passage of this act is given said company for the purpose of making sale of any real estate now held by them, and which is not proper for them to retain under their charter, and the notes and obligations heretofore issued by said company are hereby legalized: *Provided*, That such legislation shall in no way affect any right of the state.

SEC. 7. This act shall be in force from and after its passage, and thereafter it shall be deemed and taken as a part of the charter of said company, subject to the same right of repeal and amendment as the original charter.

## CHAPTER CCCCLIII.

An Act relative to the collection of taxes in Bartholomew county.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That it shall be the duty of the county treasurer of Bartholomew county, before the first day of January next after receiving the duplicate of taxes for the current year, to attend at the place of holding elections in each township for the space of one day, and as much longer as the board of county commissioners shall direct for the purpose of collecting the same.

SEC. 2. So much of section 54 article 5, of chapter 12, of the Revised Statutes of 1843, as requires the county treasurer to attend in the townships before the first day of October, be and the same is hereby repealed so far as it relates to the county of Bartholomew.

SEC. 3. This act shall be in force from and after its passage.

## CHAPTER CCCCLIV.

An Act to locate a State road in the counties of Adams, Allen, and Jay.

[APPROVED FEBRUARY 15, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That William McDowel of Jay, James Scott of Adams, and Nelson McClain of Allen counties, are hereby appointed commissioners to view, mark, and locate a state road, commencing at Bloomfield in Jay, running from thence northwestwardly on a county road to the Loblolly bridge, from thence by the way of Wm. McDowel's farm to the county road leading from Alexander to Jamestown in the county of Adams, on the best and most appropriate route, from thence on said road to the section line dividing sections twenty-three and twenty-four in Hartford township in the county of Adams, from thence north on said section line to or near the large prairie north of the Wabash river in the county herein before last mentioned, from thence on the nearest and best ground to Maldoon's Mill in the county of Allen.

SEC. 2. Said commissioners aforesaid, shall meet at the town of Bloomfield aforesaid, on the first Monday of May next, or any sub-

sequent day which they may agree upon, and when so met shall proceed forthwith to discharge their duties, having regard in the performance thereof to private property and the public good.

SEC. 3. Said commissioners aforesaid may employ a surveyor if the duties aforesaid require it, and such other assistance as may be proper and necessary, for the performance of the duties aforesaid.

SEC. 4. The county board of the respective counties aforesaid, shall make such allowance to the commissioners aforesaid and others necessarily engaged as is provided for in the third section, as they may think proper and just, in proportion to the labor performed in the counties aforesaid, respectively.

SEC. 5. Said locating commissioners aforesaid, shall within thirty days of the location of said road, file a report of the same in the auditor's office of the counties aforesaid, and the auditor of the counties aforesaid, shall lay the same before the county board of the respective counties aforesaid, at their first term thereafter, and it is hereby made the duty of the respective boards in the counties aforesaid, to order the same to be opened agreeably to the act for opening and repairing roads and highways.

SEC. 6. This act to take effect and be in force from and after its passage.

## CHAPTER CCCCLV.

An Act to locate a State road from Logansport, Cass county, to Winnemac in Pulaski county.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That Samuel Ward Sr. of Pulaski county, William M. Vanmeter of Fulton county, and Andrew McMillen of Cass county, be and they are hereby appointed viewers to view, mark, and locate a road, commencing at Logansport, thence the nearest and best route by or near the north-east corner of section 5, township 28 north, range one east, to Winnemac.

SEC. 2. The said viewers or a majority of them shall meet at the court house in Logansport on the first Monday in May 1848, or at a subsequent day to be agreed upon by them, and after taking an oath faithfully and impartially to discharge the duties assigned them, shall proceed to view, mark, and locate the said road.

SEC. 3. The said viewers shall within thirty days cause a return of their proceedings together with a copy of the field notes of

the survey of such road, to be filed in the office of the auditor of each of the counties through which said road passes.

SEC. 4. The auditors aforesaid shall lay said returns before their respective boards of county commissioners, who shall cause the same to be spread upon their minutes book, and shall also make a reasonable allowance to the viewers and others in proportion to the length of said road in their respective counties.

SEC. 5. This act to be in force from and after its passage.

## CHAPTER CCCCLVI.

An Act to incorporate the Harrison Township and Abbington Turnpike Company.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That John Weaver, of the county of Wayne, Christopher C. Buler and John Stanley, of Union county, and their successors in office, duly elected as hereinafter directed, are hereby constituted a body corporate and politic, and shall be known by the name and style of "The President and Directors of the Harrison Township and Abbington Turnpike Company;" and shall be able and capable in law and equity to sue and be sued, plead and be impleaded, defend and be defended, answer and be answered unto, in any and all courts of justice whatever; to make and use a common seal, and the same to alter, change, or renew, at pleasure; and shall be able and capable in law to make contracts and enforce the same, and to make and enforce the necessary by-laws, rules, and regulations to enable them to carry into effect the provisions of this act, and the objects contemplated by the same, not inconsistent with the laws and constitution of the State of Indiana.

SEC. 2. The said corporation, by their agents, shall have power and authority, from time to time, to examine, survey, and locate the route for a turnpike road, commencing on the Richmond and Boston turnpike road, at the crossing of a certain county road, leading from Brown's mills, in Union county, at the north-east corner of Nicholas Druly's land, on said turnpike road, and running thence west along said county road four miles to a point near Robinson's Chapel, at which the said road crosses the road from Richmond to Liberty, and thence north-east by the nearest and most practicable route to Abbington, in Wayne county.

SEC. 3. The capital stock of said company shall not be more than thirty thousand dollars, nor less than ten thousand dollars, divided into shares of fifty dollars each.

SEC. 4. It shall be lawful, so soon as seven thousand dollars shall have been subscribed, for the directors herein appointed, or a majority of them, to meet and organize and commence operations on said work; and it shall be the duty of the company in good faith to commence said work within five, and to complete the same within twenty years from the passage of this act; and on failure so to do, this charter shall be forfeited.

SEC. 5. That an act entitled "an act to incorporate the Richmond and Boston Turnpike Company," approved February 15th, A. D., 1839, except so far as the same is changed or modified by this act, is hereby adopted and made a part of this act as fully as if the several provisions of said act were fully set forth in this act; and the said company, incorporated by this act, shall be governed by the same.

SEC. 6. That for the benefit of the company, the tenth section of said act is so amended as to substitute the word "directors," instead of "stockholders," in the first line of said section.

SEC. 7. The word "nine," in the eleventh section of said act, and for this company alone, is changed to seven.

SEC. 5. This act shall take effect and be in force from and after its passage, and is declared to be a public act.

#### CHAPTER CCCCLVII.

An Act giving the commissioner of the reserved township in Monroe county, a compensation for certain services named therein.

[APPROVED JANUARY 15, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the commissioner of the reserved township of land in Monroe county, be allowed one dollar for each deed, or final certificate given or made, or to be given or made under the law making it his duty to make said deeds or certificates, for college lands in said county, to be retained by him out of any moneys which may come into his hands, from the sale of said lands, and report the same to the treasurer of state in his quarterly reports.

SEC. 2. This act to be in force from and after its passage.

#### CHAPTER CCCCLVIII.

An Act to incorporate the Canneltown Steam Mill and Manufacturing Company.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That Stephen W. Allen, Thomas Smith, Frederick Boyd, and James Porter, their associates, successors and assigns be, and they are hereby, made a corporation, by the name of "The Canneltown Steam Mill and Manufacturing Company," for the purpose of manufacturing lumber, furniture, machinery of every description, and vessels of every class and kind, either for river or ocean purposes, at Canneltown, Indiana; which said corporation shall be governed in all things, and subject to all the regulations of the "general provisions respecting corporations," contained in the act of the legislature of Indiana, of 1843, chapter 32, article 2d.

SEC. 2. The capital stock of said corporation shall not exceed one hundred thousand dollars, in shares of one hundred dollars each; and the said corporation shall have the right to hold and possess such real estate as may be necessary and convenient for the purposes aforesaid, not exceeding twenty-five thousand dollars in value, exclusive of the buildings and improvements erected thereon by said corporation.

SEC. 3. This act shall take effect and be in force as a public act for the term of thirty years, from and after its passage, unless said corporation shall sooner be voluntarily dissolved by the stockholders, of which due public notice shall be given.

#### CHAPTER CCCCLIX.

An Act to incorporate the Mount Vernon and New Harmony Railroad Company.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That William J. Lowrey, Richard Baiter, Hudron Park, William Young, George S. Green, Charles F. Leonard, Nelson G. Nettleton, James Sampson, William A. Twigg, John D. Johnson, John Cooper, Samuel Arthur, and John Morehead, of Posey county, and their successors in office, be and they are hereby declared a body corporate and politic, by the name and style of "The President and Directors of the Mount Vernon and New Harmony Railroad Company," and shall be capable in law and equity to sue and

be sued, plead and be impleaded, answer and be answered unto, in any and all courts whatever; and to make and use a common seal, and the same to alter and change at pleasure; and are hereby authorized to make contracts, and make and enforce the necessary laws, rules and regulations, to enable them to carry into effect the provisions of this act and the objects contemplated by the same, not inconsistent with the laws and constitution of this state.

SEC. 2. The capital stock of said corporation shall be three hundred and twenty thousand dollars, divided into shares of fifty dollars each, with power on the part of said corporation to increase the capital stock if necessary to complete and accomplish the objects herein contemplated.

SEC. 3. The directors in this act named, or a majority of them, shall meet at such time and place as they may agree on, and organize said corporation by electing one of their body president, and after such organization any four of them shall be a quorum to do business.

SEC. 4. The said corporation shall have power to appoint agents, clerks, treasurers, surveyors, engineers, superintendents, artists, and all other persons and officers necessary to carry into effect this act; they shall keep a journal of their proceedings, in which shall be entered all by-laws and regulations, and all orders for the payment of such allowances as may be made to their officers and all others in their employment, which journal and proceedings shall from time to time be signed by the president. They may sit on their own adjournment or meet on the call of their president; when the president is absent from the meeting they shall appoint one of their number president *pro tempore*, and they shall fill all vacancies that may happen in their own body.

SEC. 5. Subscriptions to the capital stock of said company may be made either in money, labor, real estate, or necessary and proper materials for the construction of said road; and all subscriptions which are to be paid in labor or materials, shall be paid to and received by said company at their cash value, to be ascertained by appraisers appointed for that purpose by said company. Said corporation shall cause books to be opened at such times and places as they may choose, due notice of which shall be given in some public newspaper printed and published in the vicinity of said road, in each of which books the following entry shall be made: "We, the undersigned, promise to pay the sum of fifty dollars for each share of stock set opposite to our respective names, in such manner and proportion and at such times as the president and directors of the Mount Vernon and New Harmony Railroad Company may direct. Witness our hands, this      day of      18      ."

SEC. 6. It shall be lawful for all persons of lawful age, or for any corporate body, in the United States, by their constituted officers or agents, to subscribe for any amount of the capital stock of said railroad company; and the said corporation may, by their officers or authorized agent or agents, offer for sale in any of the states

of the United States, any amount of their stock upon such terms and conditions as may be thought advisable; and said corporation shall have power to borrow money (on their own credit) or by pledging the real estate subscribed as stock, or both, upon such terms as may be agreed upon by the parties. The said corporation may require such sums of money to be paid at the time of subscribing for stock, not exceeding five dollars on each share, as they may think proper, but the amount required to be paid on each share subscribed for shall be made known in the notice for opening the books, and any future installments or payments on stock shall be under the control of and regulated by the said company, subjected to the restrictions hereinafter mentioned.

SEC. 7. As soon as the capital stock is subscribed for, and the amount required in said notice to be paid on each share at the time of subscription, shall have been paid in, it shall be the duty of said corporation to give three weeks' notice thereof in some public newspaper or newspapers near said railroad, and in said notice appoint a time and place for said stockholders to meet and elect nine persons, who shall be stockholders and citizens of this state, and which election shall be by ballot and conducted under the superintendence of an inspector and two judges, selected by a majority of the stockholders present at such election, and the nine persons receiving the highest number of votes shall be declared duly elected. In all elections each share shall entitle the owners thereof to one vote, and any person or persons being the owner or owners of more than one share of said stock shall be entitled to a vote for each share; the vote or votes in all cases to be given by the owner or owners thereof, by him, her, or themselves, or by their agents, proxies, or legal representatives.

SEC. 8. It shall be the duty of the directors elected as above, and those elected at all subsequent elections, to elect one of their own body president. The president and directors thus elected shall continue in office until the next annual election, and until their successors are elected and qualified.

SEC. 9. All elections, after the first, shall be held on the first Monday in January in each year, to be conducted in all respects as specified in section seven of this act. Three weeks' notice in some public newspaper near the said road shall be given by the said board of the time and place of holding such elections; and the directors elected at any such annual election shall hold their offices for one year, and until their successors are elected and qualified; but should no election be held on said first Monday in January in any year, it shall be lawful to hold an election on some other day to be appointed by said board, of which notice shall be given as above in this section specified, and to be conducted in the same manner as is provided for in section seven, and the directors thus elected shall hold their offices until the next annual election, and until their successors are elected and qualified.

SEC. 10. Certificates of stock shall be given to the stockholders,

which shall be evidence of the stock held; such certificates shall be signed by the president and countersigned by the clerk of said company. The stock shall be transferred on the books of the corporation only by the person or persons owning the same, in person, or by their legally constituted agent or agents, attorney or attorneys, or by their legal representatives, trustees, or guardians; and such stock shall be at all times holden for any dues from the owners thereof to the corporation, or for any sums that may thereafter become due, or any contract made with said corporation prior to such transfer.

SEC. 11. The said corporation shall have power to call for such portion of the stock subscribed for (not exceeding fifteen per centum in every six months) as they may think proper, to be paid at such time and place as they may designate, by giving sixty days' notice thereof in some newspaper near the said road, or by giving to the stockholders written notice, in which shall be specified the amount called for and demanded on each share, and the time and place of payment, and if any stockholders shall fail, neglect, or refuse to pay the sum so called for on his, her, or their stock within ten days after the time named for such payment in said notice, the corporation may bring suit against such delinquent for the amount due and called for in any court having competent jurisdiction, and recover the amount so called for and unpaid, together with interest from the time of such failure, neglect, or refusal; and the evidence to establish such claim of the corporation shall be the order in the journal of the proceedings of said corporation for calling for the installment on the stock, and proof that the notice above specified has been given; and if the amount so recovered against any such delinquent cannot be made on execution, or if such delinquent is out of the state, then the corporation may, by an order on their journal of proceedings, declare such stock and all that may before have been paid thereon forfeited to said corporation; and no delinquent, after the failure, neglect, or refusal aforesaid, and before the stock shall be declared forfeited to the corporation, shall have the right to vote for directors or receive any dividends on his, her, or their stock until the corporation is fully paid and satisfied; and should any such delinquent or delinquents be a director or directors in said corporation, his or their offices of director or directors may be by the balance of said board declared vacated, and they may proceed to fill, from the qualified stockholders in said corporation, such vacancy or vacancies in such board of directors, and the person or persons so appointed shall hold their office or offices until the next annual election, and until their successors are elected and qualified. The corporation shall require from all officers and others in their employ bonds, with such security as they may think proper, for the faithful performance of their respective duties or undertakings.

SEC. 12. The said corporation shall have power, by themselves or agents, to examine and survey and locate a route, and make

and construct on such route a railroad from some convenient point in the town of Mount Vernon, in Posey county, to New Harmony, in said county, thence to some convenient point on the bank of the Wabash river opposite to Graysville, in Illinois. The commencement of said road shall be in the town of Mount Vernon, but the particular point of commencement in said town shall be designated and established by the board of directors next succeeding those in this act mentioned, and the terminating point of said railroad route shall be designated and settled by the same board of directors; and when said board shall have designated and settled upon the commencing and terminating points they shall record the same upon the journal of proceedings of said board, which shall preclude the said corporation from ever designating or fixing any other points of commencement or termination; and when said points of commencement or termination shall have been designated and settled as before mentioned, the said corporation shall have power, and they are hereby authorized, by themselves or agents, to examine and survey and locate a railroad route from such commencing to such terminating points, on the most suitable ground, and such as will be most conducive to the public good and the interest of said corporation, and to build and construct a railroad for such motive power as may be determined on by said corporation; *Provided, however,* That the said railroad route shall not be located on any state or county road without the said corporation first having obtained permission so to do from the board of county commissioners of the county in which a state or county road is sought to be used, and which permission, when once given and entered on the order book of said commissioners, shall be irrevocable during the existence of this corporation; *Provided,* Said corporation, before asking for the use of said state or county road, shall give three weeks' notice in some newspaper printed in the county where such application is to be made, if any there be, if not, by written notices in three of the most public places in said county.

SEC. 13. And for the purpose of making such examination and location of said railroad route, it shall be lawful for said corporation and their agents, and persons in their employ, to enter upon any land to make surveys and estimates, and for the purpose of searching for stone, wood, or other materials necessary for the construction of said railroad; but no stone, or wood, or other materials shall be taken away from any land without the consent of the owner thereof, or until the amount of compensation therefor has been ascertained.

SEC. 14. It shall be lawful for said corporation, either before or after the location of said railroad, to obtain from any person or persons through whose lands said road may run, a relinquishment of so much land as may be necessary for the construction of said road; also, the stone, timber, and other materials that may be obtained on said route, and may contract for any stone, timber, or other ma-

materials on any lands near to said road for the benefit of said corporation, and said corporation may receive by gift, grant, donation, or bequest, made and entered into in writing by any person capable in law of contracting, made in consideration of said road, and for the benefit of said corporation, lands, money, labor, stone, timber, or other kind of property, and all such gifts, grants, donations, and bequests shall be binding and obligatory, and the said corporation shall have their action at law or in equity to compel a compliance therewith: *Provided*, That no such contract, relinquishment, gifts, grants, donations, or bequests shall be binding and obligatory until the same shall be in writing and signed by the party making the same.

SEC. 15. That whenever said corporation shall have procured the right of way as herein provided, they shall be seized in fee simple of the right to said land, and shall have the sole use and occupation of the same for the purposes aforesaid; and no person, body politic or corporate, shall in any way interfere with, molest, disturb, or injure said corporation in any of their rights and privileges granted.

SEC. 16. The said corporation shall commence the construction of said road within five years after the passage of this act, and shall finish the same within ten years thereafter.

SEC. 17. That the said corporation, for the conveyance or transportation of passengers, or any kind of freight on said road, or any portion of it, may charge such sums of money as shall best comport with the interest of said company, and as shall not be considered oppressive; the work to commence at Mount Vernon.

SEC. 18. Any person who shall wilfully or maliciously destroy or injure any of the cars, machinery, furniture, apparatus, or other property or thing belonging or appertaining to said railroad, or shall wilfully, mischievously, or maliciously place any obstructions on said railroad, shall, on conviction thereof by presentment, be fined in any sum not exceeding five hundred dollars, and shall moreover be liable in an action on the case to any person or persons, body politic or corporate, and for any and all injuries to persons or property occasioned thereby.

SEC. 19. The said corporation shall cause to be kept a fair account of the costs of the making and repairing of said road, and every section thereof, and all incidental expenses, and shall also keep a fair account of any and all moneys received from the transportation of freight, mails, or other property or passengers on said road; and the books of said corporation shall always be kept open for the inspection of stockholders and creditors of said company.

SEC. 20. That in all cases where any person through whose land the road may run, shall refuse to relinquish the same, or where a contract between the parties cannot be made, it shall be lawful for the corporation to give notice to some justice of the peace in the county where such difficulty may occur, and such justice shall thereupon summon the owner of said land to appear before him on a particu-

lar day, within ten days thereafter, and shall appoint twelve disinterested persons of the neighborhood, who shall, after taking an oath faithfully and impartially to assess the damages, if any, on the lands or materials, and after having taken into consideration the advantages as well as the disadvantages the road may be to the same, and shall report thereon whether such person is entitled to damages or not, and if so how much, and shall file such report with such justice, whereupon said justice shall enter judgment thereon, unless for good cause shown, and in case either party should show sufficient cause why judgment should not be entered, the justice may grant a review of the premises, either with or without cost: *Provided*, That either party may at any stage of the proceedings appeal to the circuit court of the county as in other cases, and such court shall appoint viewers as above directed, who may report at that or the succeeding term of the court, and the judgment of the court shall be final.

SEC. 21. That this charter shall be subject to repeal upon the violation by the said corporation of any of its provisions herein, or when its franchises may prove oppressive to the counties through which said road shall run, or when public good may require.

SEC. 22. The stockholders shall be liable in their individual capacity, for the payment of all dues to laborers, for work done upon said road, not paid by them in their corporate capacity.

SEC. 23. This act is hereby declared a public act, and shall receive a liberal construction.

SEC. 24. This act to be in force from and after its passage.

## CHAPTER CCCCLX.

An Act to amend an act to incorporating the Brookville and Connersville Turnpike Company.

(APPROVED FEBRUARY 16, 1848.)

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the Brookville and Connersville Turnpike Company, be, and the same is hereby authorized to organize and proceed to business, when stock enough shall have been subscribed for the completion of five miles of said road.

SEC. 2. That the capital stock of said company shall be reduced to the amount necessary for the making of said road and erection of toll houses.

SEC. 3. That said company may make the said road of a less

width than that named in the original act of incorporation: *Provided*, The metallic part shall be not less than 14 feet in width.

SEC. 4. That said company may erect toll gates, and collect toll on the same, when five miles of said road shall have been completed.

SEC. 5. That the benefits of this act shall be secured to any company incorporated to make a road between Brookville and Connersville, or any intermediate points, whether the title of said company is or is not, that given to it in this act.

SEC. 6. This act shall be in force from and after its passage.

#### CHAPTER CCCCLXI.

An Act to authorize Thomas Hamilton to build a mill dam across the St. Joseph river, in Allen County.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That Thomas Hamilton, of Allen county, Indiana, be, and he is hereby authorized to keep up the mill dam now erected across the St. Joseph river, in section fifteen of township thirty two north, of range thirteen east, at the mill dam known as Manning's mill, or if said Hamilton, his heirs or assigns, shall deem it best, he, or they are hereby authorized, to erect and keep in repair a new mill dam near said point, either above or below, across said river.

SEC. 2. Said Hamilton is hereby authorized to remove any and all obstruction of wood, rocks or earth, so as to make said river navigable in low water from said mill dam down to the pool of the feeder dam.

SEC. 3. Said Hamilton, his heirs or assigns, shall upon all times, upon any such mill dam erected or to be erected under the provisions of this act, construct and keep in suitable order a chute or slope sufficient to pass peirougues, rafts, and other water craft usually navigating said river.

SEC. 4. This act to be in force from and after its passage.

#### CHAPTER CCCCLXII.

An Act to amend the charter of the Milford and Columbus Railroad Company.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That said company under and by the provisions of said charter and the act amendatory thereto, may construct and extend said road to the town of Greensburg, in said county of Decatur; that it shall and may be lawful for said company to increase the capital stock of said company, to any amount sufficient to construct said road, not to exceed five hundred thousand dollars.

SEC. 2. That so much of said charter and the act amendatory thereto, as gives the legislature the right to alter and amend said charter, be, and the same are hereby repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

#### CHAPTER CCCCLXIII.

An Act for the relief of A. Bird.

[APPROVED FEBRUARY 15, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That A. Bird, be, and he is hereby allowed the sum of thirty dollars and eighteen cents, for articles furnished the Senate during the session of 1846 and 7, that the auditor audit the same, and the treasurer pay the same out of any money in the treasury not otherwise appropriated.

SEC. 2. This act to take effect and be in force from and after its passage.